

The following pages are from comments and attachments emailed by Gerald Winegrad of behalf of a group. As there were a number of pages, they are being sent/posted separately.



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Final Comments on Forest Conservation Plan for Crystal Spring

1 message

Gerald Winegrad <gwwabc@comcast.net>

Fri, Jan 30, 2015 at 6:01 PM

To: ForestConservationAct <ForestConservationAct@annapolis.gov>

Dear Ms. Broadbent,

On behalf of 36 area leaders listed below, I am submitting to you our final comments on the most recent Crystal Spring Preliminary Forest Conservation Plan. We did not try to gain the sign-ons of the thousands of citizens opposed to the Crystal Spring development plan, only those leaders working with us directly. The comments reflect much input from specialists in forestry, Smart growth, the Forest Conservation Act, wetlands, stormwater, traffic issues, Urban Design, planning, and law.

We sincerely hope you will factor in our comments in the decision-making process. Our comments detail the case why the City should stop processing the application now or reject it.

The attachments mentioned in the comment letter are being sent separately after this comment letter to assure that your email system allows for receiving the letter and the attachments as there are photos/sketches in the comment letter. .

Thank you for your attention to this letter and please call me if there are any questions —410-280-8956.

Respectfully Submitted by Gerald W. Winegrad on behalf of:

Governor Parris Glendening (1995-2003)
 Ellen Moyer, Mayor, City of Annapolis (2001-2009)
 Gerald W. Winegrad, Maryland State Senator (1983-1995)
 C. Richard Damato, Former Delegate, Maryland House of Delegates, (1999-2003)
 Barbara Samorajczyk, Member, Anne Arundel County Council, District 6 (1998-2006)
 Chuck Ferrar, Anne Arundel County Council Member (2009-2010), Business Owner on Forest Drive
 Gene M. Ransom III, Queen Annes County Commissioner (2002-2010)
 David Prosten, Chair, Anne Arundel Sierra Club
 Arthur Scott Mobley, President, Annapolis Neck Peninsula Federation
 Anastasia Hopkinson, Vice President, Annapolis Neck Peninsula Federation
 Fred Kelly, Severn River RIVERKEEPER®
 Frederick Tutman, Patuxent RIVERKEEPER & CEO
 Barbara K. Johnson, President, Anne Arundel Bird Club
 Ray Sullivan, Save Your Annapolis Neck
 William Small, Anne Arundel Green Party
 Liz Vanden Heuvel, Co-Chair, Greater Annapolis Interfaith Network
 Rev. Henry Green, Past Pastor, Heritage Baptist Church (1998-2014)
 Marcia Verploegen Lewis, Member, Board of Directors, Maryland League of Conservation

Voters

Michael Murdoch (Retired), Founding Superintendent, Quiet Waters Park (1990-2012)
J. Elizabeth (Beth) Garraway, PhD, Former Member, Board of Directors, MD League of Conservation Voters. President Emerita, MD Independent Colleges/Universities
Nancy Plaxico, Member, President's Council of The Wilderness Society, Board Member, Oyster Harbor Citizens Association

Forrest Mays, Esq., 2646 Masque Farm Road, Annapolis, MD 21403

Christopher L. Beard, Esq., Jennifer G. Beard

Dr. Marilyn Katatsky, Former Board Member, South River Federation

Colonel Fred Gregory, USAF (Ret.), Former Astronaut and NASA Deputy Administrator

Jane W. McWilliams, Historian and Author of Annapolis, City on the Severn (2011)

Jesse Iliff, Attorney, Consumer Law Center, LLC

Gwen Azama, Save Your Annapolis Neck

Michael Long, Secretary, BayWoods Cooperative Housing Corporation

Suzanne Pogell, President, Womanship, Inc & Former Chair, Annapolis Environmental Commission

James Urban, Fellow, American Society of Landscape Architects Former Member, Annapolis City Planning Commission,

Rob Schnabel, Past Chair, Annapolis Environmental Commission, Watershed Restoration Scientist, Chesapeake Bay Foundation

Kent McNew, Former Board Member, South River Federation

Ann M. Fligsten, Coordinator, Growth Action Network Of Anne Arundel County

Russell B. Stevenson, Jr., Chairman and Founder, Chesapeake Legal Alliance

Evan K Thalenberg, President, Chesapeake BaySavers



PFCP Public Comments January 30 2015 Final.docx

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CONCERNED CITIZENS FOR PROPER LAND USE

c/o Sierra Club, Anne Arundel County Group

P.O. Box 3620

Annapolis, MD 21403

January 30, 2015

Ms. Maria Broadbent, Director
City of Annapolis Department of Neighborhood and Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

Re: Crystal Spring Preliminary Forest Conservation Plan Filed on December 31, 2014

Dear Director Broadbent,

We hereby submit these comments on behalf of 36 leaders from the Annapolis area on the Crystal Spring Preliminary Forest Conservation Plan (PFCP) filed by the developers on December 31, 2014. We have previously communicated our questions, concerns, and objections to approval of the PFCP in previous filings, conversations, and via email. We also submitted detailed formal comments to you in our letters of June 21, 2013 and July 31, 2014. Many of those questions, concerns, and objections still remain with the latest filing. This also appears to be the case with many of the questions, concerns, and directives DNEP and Planning and Zoning submitted to the developers on August 8, 2014 concerning the shortcomings in their last PFCP

Here are our concerns and objections to approval by DNEP of the pending PFCP:

I. PUBLIC COMMENT AND ITS CONSIDERATION.

In order to make our comments meaningful to the process of determining the adequacy of the PFCP, we trust that any decisions and planned comments by DNEP and other agencies in the City are not formulated until after the public comment period has ended. Publically commenting would have no meaningful influence on the decision-making process if staff positions and agency decisions are already made or substantially made before January 30, the deadline for public comment. If this occurs, it would be a waste of time for those willing to pour over the filings and write detailed comments.

You were informed of our concerns over the decision-making process as a result of your comments at the Environmental Matters Committee hearing on January 22 at which citizens were shut out and not allowed to speak on the PFCP. None of us could raise our concerns over the significant failure by the developers to make the changes necessary to meet FCA requirements requested by DNEP and P & Z. Comment from the public was excluded on such a controversial pending regulatory matter while you and Mr. Biba informed the Committee that the developer's FCP met or exceeded the minimum standards under the FCA for keeping forest cover under the technical conditions for net forest tract, zoning, and reforestation or afforestation. This led to the headline in *The Capital* the next day: **City: Crystal Spring plan meets criteria**, and the lead of the story that City staff said that the plan meets requirements for retaining forest.

The most glaring problem leading to such a misunderstanding, which was not limited to *The Capital*, was when both of you spent most of your time essentially reiterating what the developer has said in their filings and in their PR about having met the minimum standards mentioned above. Neither of you went into any detail on the separate and more important and critical issue for Crystal Spring's forests--the much more restrictive requirements for PRIORITY forest and how the developer has failed to meet them. .

In addition, you both did not go into any detail on the protection of trees of significance (those more than 24" DBH). You did raise this contentious issue a bit at the hearing but never spoke of the controversy over this issue with the developers. Also absent from the discussion were the admonitions from the Mayor and City planners to move all development north of the intermittent stream, which the developers defied in their most recent filing.

It seemed like the key points you wanted to make were that the PFCP meets the technical requirements, as mentioned above, and that the plan has been downsized over time. The sequence of maps the developer submitted and which you chose to display at the hearing includes the outrageously destructive and massive first sketch plan for the development in 2011. The developers realized that this grandiose plan was going nowhere and never formally submitted it to the City. Comparing subsequent filings to this footprint is good PR but certainly should not be considered in evaluating whether to approve the current PFCP.

As an example of the duplicity involved in this process, the May 2011 sketch plan for the site showed a CCRC apartment building of 94,000 sq. ft. and of four stories; the plans submitted in June and December both show a building that has grown substantially to 112,858 sq. ft. while also increasing in height to six stories. This is downsizing? Comments submitted back to the developer on August 8 advised the developer to move or downsize this building so as not to impact as much forest and wetland B.

The recent filing of the PFCP does very little to shrink or downsize the project since their last filing in June 25, 2014. This is despite the many admonitions to do so by DNEP and Planning and Zoning in their comments to the developer of August 8, 2014.

All of this makes it even more important that our comments and those of other member of the public should be given serious review and consideration by you at DNEP and at the other City agencies. Such comments can help inform the decision-making on the FCP and point out flaws in the developer's filings.

The following comments document why you at DNEP should not approve the PFCP:

II. DNEP SHOULD NOT PROCESS THE PFCP PENDING ADOPTION OF A FOREST CONSERVATION ORDINANCE BY THE CITY.

The City has adopted by reference the State Department of Natural Resources Forest Conservation Act, Maryland Natural Resources Article §5-1601 et seq. However, in failing to enact its own ordinance, many gaps in applying the law exist. For example:

A. Under the Forest Conservation Act found in Natural Resources Article §5-1603(c)(2), a local program approved by DNR shall include the following:

- *A policy document, and a local ordinance relating to review, approval, and appeal processes;
- *A Forest Conservation technical manual tailored for and adopted by the City; and
- *A City review and amendment of all current ordinances and grading requirements to meet the FCA requirements.

The City of Annapolis has not complied with any of these mandates, thus making the administration of the FCA unclear and with regulatory gaps.

B. Under the state FCA Technical Manual at COMAR 08.19.04.11, Public Notice, the Department of Natural Resources shall issue a public notice of an opportunity to submit written comments or to request a public hearing after the Department has determined that applications for a Forest Conservation Plan are

complete. The City needs to adopt such procedures, follow this State provision and properly notify the public with adequate time to comment and also set up a procedure for a public hearing.

C. As discussed below, the City is required by state law (State Forest Conservation Act, Natural Resources Article §5-1611), to provide procedures for the granting of variances for the clearing of specimen trees and other trees of significance. The City has not done so and is without authority to approve such a variance request, which is pending for the Crystal Spring FCP.

We know these and other significant gaps in the City's review and approval processes under the FCA are not your fault and you must deal with these problems as best you can, but we believe that the procedural and substantive voids dictate that no action can or should be taken by the City on this application until such time as the City adopts a comprehensive Forest Conservation ordinance to comply with State law.

NOTE: After this section was prepared as part of our comments, DNEP employee Rob Savidge submitted an opinion piece to the Capital newspaper that was published on January 27 that provides support for the position mentioned above. He noted that: "Annapolis has not fully adopted Maryland's Forest Conservation Act. Because of this, we do not have a clear environmental review, approval or appeal process, or our own forest conservation technical manual, in violation of state Natural Resources Article § 5-1603. This has allowed many development projects (including Reserve at Quiet Waters, adjacent to the park) to navigate the environmental review process without properly applying the forest conservation laws. Every development that is or was subject to the FCA could be called into question and challenged in court." Savidge has over 12 years of experience as a Qualified Forest Professional.

III. DNEP SHOULD NOT PROCESS THE PFCP PENDING A REVIEW OF AND APPROVAL OF A VARIANCE.

Natural Resources Article §5-1611, part of the state Forest Conservation Act adopted by reference by the City, states as follows:

(a) In the preparation of the State or local forest conservation programs, the State and local authorities shall provide for the granting of variances to the requirements of this subtitle, where owing to special features of site or other circumstances, implementation of this subtitle would result in unwarranted hardship to an applicant.

(b) Variance procedures adopted under this section shall:

- (1) Be designed in a manner consistent with the spirit and intent of this subtitle; and
- (2) Assure that the granting of a variance will not adversely affect water quality.

On May 28, 2013, an attorney for the developers filed a request with you for a variance from the provisions of the Forest Conservation Act in order to cut down 27 specimen trees (now 18) with a DBH of 30" or more. This is prohibited under state and City law unless the applicant meets the unwarranted hardship test for a variance and can demonstrate that the applicant has exhausted all alternatives to protect these specimen trees.

In 2013, during the pendency of the PFCP filed on May 24, 2012, you advised us that the City would not review this request for a variance but would simply send it to DNR for their review and approval or disapproval. This was apparently because the City had not adopted any procedures for such a variance.

You, acting for DNEP, instructed the applicant on June 28, 2013, that "[i]t is too early in the development review process to consider an FCA Variance Request. Please submit the FCA Variance Request at a later date." According to the applicant's latest PFCP filing, DNEP still has not notified them that it is the time in the development review process to consider the variance request which would now cover 18 trees of

significance. Because of this, the applicant declined to further pursue or justify the variance request in the December 31, 2014 filing.

We submit that the PFCP cannot be approved under the law, nor can a final FCP, until a variance procedure is established by the City and a variance request is granted or denied. This is a key component of the FCP process and approval or denial of a FCP must be held in abeyance until the variance issue is decided. Allowing the FCP process to proceed and granting even preliminary approval to a FCP is putting the horse before the cart; a denial of a variance in this case would mean the FCP would have to be re-done.

Note that the Model Forest Conservation Ordinance, recommended by DNR to meet the requirements of the FCA, supports the position that trees of significance shall be retained and left in an undisturbed condition until a variance is approved.

The Model Forest Conservation Ordinance provides that:

7.2-1 Retention. The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department, that the applicant qualifies for a variance in accordance with Section 14.1 of this article:

A. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:

- (1) The federal Endangered Species Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17,
- (2) The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and
- (3) COMAR 08.03.08;

B. Trees that:

- (1) Are part of an historic site,
 - (2) Are associated with an historic structure, or
 - (3) Have been designated by the State or the Department as a national, State, or county champion tree;
- and

C. Any tree having a diameter measured at 4.5 feet above the ground of:

- (1) 30 inches or more, or
- (2) 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.

See: <http://www.dsd.state.md.us/comar/getfile.aspx?file=08.19.03.01.htm>

How can DNEP consider and approve a FCP that would allow the destruction of 18 specimen trees protected under the law before an applicant has been granted a variance? There is no provision for a temporary approval while seeking a variance. Such trees must be retained and protected and left undisturbed until such a variance is approved. Without a variance for clearing the 18 large specimen trees planned to be cleared, the FCP would not meet the state or City law.

To our knowledge, there are no formal City processes for such variances or for how the public can weigh in on the grant of such variances. We are assuming the City has no procedures for granting such a variance despite more than 23 years having passed since the enactment of state Forest Conservation Act. We raised this same issue in our comment letters of June 21, 2013 and July 30, 2014 but the City still has not complied with State law and formally adopted such procedures.

We therefore request that the processing of the PFCP be held in abeyance until a variance procedure is established with detailed criteria by which members of the public are provided with a formal procedure for providing input into the variance process until a variance is either granted or denied. The County surrounding the City has detailed provisions for granting such variances from County Code and has a formal application process with public notice and public input provisions and a requirement for a hearing before the Administrative Hearing Officer with a full opportunity for public testimony and for staff recommendations. Shouldn't the City do the same?

FOR THE REASONS STATED IN THE COMMENTS IN ITEMS II. AND III. ABOVE, THE CITY SHOULD NOT PROCESS THIS APPLICATION ANY FURTHER. IF THE CITY PROCEEDS DESPITE THE REASONS GIVEN IN THESE SECTIONS, THE FOLLOWING DETAILS OFFER AMPLE JUSTIFICATION AS TO WHY THIS APPLICATION SHOULD NOT BE APPROVED.

IV. DNEP SHOULD NOT APPROVE A VARIANCE.

The developer's previously stated reasons for the City granting the variance to clear specimen trees do not come close to justifying such a variance and are completely for the convenience of the developer and to assure they can gain their maximum density and profitability. It is ludicrous to state that the variance should be granted because leaving the specimen trees in an undisturbed condition as required would prevent them from building or moving a large building (the CCRC building to house 289 apartments) or that leaving the trees would be against Smart Growth principles.

In the Annapolis Environmental Commission comments submitted to you on June 17, 2013, the AEC stated: "The developer's environmental consultant provides its justification for removal of the specimen trees in a letter dated May 28, 2013 and addressed to Maria Broadbent at the City Department of Neighborhood & Environmental Programs. In a fashion similar to its justification for clearing priority forest, the developer appears to focus on an economic basis for its variance request. Specifically, avoidance of all 27 specimen trees would result in an unwarranted hardship 'through a significant loss of units and developable area.' M. Klebasko Letter to M. Broadbent at 2 (May 28, 2013). As stated above, a mere reduction in the profitability of the property does not on its own result in an unwarranted hardship."

In *Belvoir Farms Homeowners Ass'n v. North*, 355 Md. 259 (1999), the Court of Appeals (Maryland's highest court), ruled that in the context of a variance an unwarranted hardship is equivalent to the denial of reasonable and significant use of the property and reaffirmed a previous ruling: "We also have noted: The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant, inasmuch as the aim of the ordinance is to prevent exceptions as far as possible, and a liberal construction allowing exceptions for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance." The Court cited: *Carney v. City of Baltimore*, 201 Md. 130, 137, 93 A.2d 74, 76-77 (1952).

See also *Loyola Federal Savings & Loan Association v. Buschman*, 227 Md. 243 (1961): "It is settled Maryland law that the fact that some use other than that which is permitted under a zoning ordinance would be more profitable than a permitted use is not enough to invalidate a use restriction, if the property can reasonably be used for some purpose for which it is adapted."

The justification for clearing trees of significance in the present instance appears entirely based on a desire to maximize the profitability of the project. A diminution in value of the profitability of the property by reducing the extent of the development does not create an unwarranted hardship. Despite protestations by the developer's attorney that Maryland case law and regulations clarifying and detailing

what constitutes unwarranted hardship, it is incumbent on DNEP's part to follow these regulations and the dictates of Maryland's highest court. Thus, it is therefore reasonable to require the developer to further modify the project to reduce the clearing of specimen trees so as to meet the requirements of the law that trees of significance are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City that the applicant qualifies for a variance and establishes unwarranted hardship.

Furthermore, the applicants have violated the statutory requirement that the granting of a variance not adversely affect water quality. Clearing 18 trees of significance and replacing them with impervious surfaces will certainly adversely affect water quality.

We would respectfully suggest that taking the statutory requirements for variances from the FCA and state regulations, and applying Maryland's highest court's judicial interpretations of unwarranted hardship, requires that the applicant meet all of the following before the grant of such an exceptional waiver:

A. 1. A person may request a variance from the requirements of this chapter or the requirements of the Natural Resources Article, §5-1601-5-1612 as adopted by the City, if the person demonstrates that such enforcement of such requirements would result in unwarranted hardship to the person.

2. In considering an application for a variance, DNEP shall presume that the specific development activity that is subject to the application and for which a variance is requested does not conform with the general purpose and intent of the Forest Conservation Act and the requirements of Natural Resources Article, §§5-1601---5-1612.

3. An applicant has the burden of proof and the burden of persuasion to overcome the presumption established under paragraph 1 of this subsection.

B. DNEP may not grant a variance unless the applicant has satisfied each of the following variance provisions:

1. Demonstrate how the specific conditions particular to the property would cause the unwarranted hardship;

2. Demonstrate how the purpose of the variance is not based exclusively upon the desire to increase financial gain;

3. Demonstrate how the variance is the minimum variance necessary to afford relief and overall impacts to forest have been minimized to the extent possible;

4. Demonstrate how enforcement of this chapter would deprive the applicant of rights others in similar areas commonly enjoy;

5. Demonstrate how granting a the variance would not confer on the applicant a special privilege that would be denied to other applicants;

6. Demonstrate how the variance request would not be based on conditions or circumstances which are the result of the applicant's actions;

7. Demonstrate how the variance request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property;
8. Demonstrate how granting the variance would not adversely affect water quality or the habitat of fish, wildlife, or plants;
9. Demonstrate how all reasonable efforts have been made to retain the existing forest cover and individual trees and the development plan cannot reasonably be altered;
10. Demonstrate how granting the variance will not impede the City's tree canopy coverage goal, set in conjunction with the Maryland Department of Natural Resources, to increase the coverage to 50% by 2036 from the 2006 determination of the Maryland Department of Natural Resources that the city's tree canopy had 41% coverage; and
11. Demonstrate how the applicant has overcome the presumption in subsection a.2 of this section that the specific development activity for which the variance is required does not conform with the general intent of this chapter and Natural Resources Article, §§5-1601---5-1612.

Allowing such variances because of having to lower density or move buildings or under some vague and incorrect assertion of Smart Growth would neuter the protective provisions of the Forest Conservation Act.

The Forest Conservation Act, wetland laws, the Critical Area Law, and other environmental protection statutes set requirements that are meant to assure that the landowner or developer modifies development proposals so as to meet the statutory goals of environmental protection. The statutory provisions of these land use laws contemplate that the landowner or developer may not be able to attain the full development footprint allowed by zoning laws.

The City should not allow the tail to wag the dog here with the developer telling the City what it wants to do regardless of such laws by claiming unwarranted hardship or, including such vague descriptions of how the application of Smart Growth principles support specimen tree removal and priority forest clearance.

Further, if the City grants the variance, how can the City justify disregarding the comprehensive comments of its own environmental advisory body? After all, the AEC under City Code is supposed to be the City's environmental watchdog and is tasked under the Code: "To be concerned with the protection and improvement of the natural health and welfare of the environment; to coordinate recycling activities; to identify specific environmental problems; and to review matters before other City bodies affecting the environment." City Code: 2.48.330.

V. REQUIREMENTS FOR PROTECTION OF PRIORITY FOREST HAVE NOT BEEN MET.

On January 8, 2013, the developer's draft site plan was used to indicate that "only" 36 acres of forest would be cleared. Both Mr. Marshall Breines and Mr. James Eagan (the master developers) and their PR consultant, Mr. Andrew Bing, indicated that forest clearing on the 111 acre site would be kept to 36 of the 82 acres of forest. They so informed Gerald Winegrad of this at a meeting in Annapolis on January 8, 2013 when they gave him a copy of the new site plan that was posted on your web site shortly thereafter.

We have a letter from the owner, Ms. Richardson, sent to us on March 5, 2013, in which she notes that under the January 2013 plan, more than 50 percent of the 82 forested acres on the property would be retained. This is cited in making her case for how environmentally responsible the development was.

David Prosten has a copy of an email from Andrew Bing to David dated January 17, 2013 in which Mr. Bing clearly states that "our goal is to retain 44 forested acres."

The developer's web site notes under "A Commitment to Sound Environmental Practices. The proposed development plan will retain more than 50 percent of the 80 forested acres on the site."

See <http://www.crystalspringannapolis.com/about/crystal-spring-fact-sheet> Accessed June 30, 2014.

However, the PFCP submitted by the developers on December 31, 2014 indicates that 43.46 acres of designated Priority Forest would be destroyed, much more than one-half of the Priority Forest set as the maximum previously. This clearing would leave only 38 acres of forest. This is being touted as an improvement over their filing in May 2013 where they raised the clearing to 48.64 acres of Priority Forest. Despite admonitions by the City to conserve more forest, the new PFCP of December 31 notes a reduction of only 0.78 acres, from the 44.24 acres under their June 25, 2014 filing. This minor reduction is hardly what the City contemplated in sending the PFCP back for improvements and still exceeds previous pledges and site plans.

At the Environmental Matters Committee meeting mentioned above you and Frank Biba used the developers' maps on a large screen showing a grandiose plan from 2011 that was never filed and then tracked several subsequent iterations as indicating a shrinking of the footprint. The latest plan actually results in the destruction of 21 percent more City-designated Priority Forest than the 36 acres of forest to be cleared back in January 2013. We firmly believe that this abrogation of written and verbal pledges by the developer should result in your outright rejection of the applicants' PFCP.

The developers' PFCP acknowledges that "76 acres of the 82 acres of Priority Forest on site is a mature, mixed hardwood forest with numerous large trees estimated to be between 80 to 100 years old scattered throughout the site." There is very little such mature forest left in the City and all efforts should be taken by the City to protect these 76 acres of Priority Forest because of the unique water quality, air quality, wildlife habitat, sediment and erosion control, natural features, and the aesthetic beauty such a forest provides.

The plan also fails to adhere to requirements for the preservation of sensitive areas previously indicated by DNEP staff.

DNEP clearly has the authority -- and the duty -- to enforce and assure compliance with the Forest Conservation Act and assure the protection of all or mostly all of the Priority Forest. The State law adopted by the City provides: "The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:2. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site." See NR Article § 5-1607 (c) (1) (ii).

The developers acknowledge that all 82 acres on the property are a Priority Forest under the law. These high quality, highly valuable forest warrant strict retention and protection.

Even should DNEP conclude that the developer's FCP meets or exceeds the minimum standards under the FCA for keeping ordinary forest cover under the FCA's technical requirements for net forest tract, breakeven point, thresholds, and reforestation and afforestation, the statutory requirements for contiguous forest designated as Priority Forest are substantially higher. Simply meeting or exceeding the minimum

requirements for the clearing of non-priority forest in no way satisfies the dictates to retain and protect priority forest. The statutory language is clear that such forest "shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered."

It defies logic to find such a high standard has been met in the plan now before the City. How could any reasonable interpretation of the statutory dictates conclude that the developer has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered? The developers only reduced the clearance of such Priority Forest from their last filing by a miniscule 0.78 acres.

It should be noted that the owner of the property had induced the City to annex the property by promising to protect most of the forest and submitting a proposal for 3-5 acre farmettes at Crystal Spring, preserving the equestrian nature of the adjoining properties, with some retail and commercial development nearest Forest Drive. Here's the farmette sketch as envisioned by the owner and submitted to the City in 2005 as part of the annexation plan:



Now, the developer comes in with a proposal for a massive project on the site that would destroy 43.46 acres of forest and replace it with 475 housing units and up to 115 health care units in two buildings, with a performing arts center, a chapel, an 80-room hotel and spa, 160,695 sq. ft., of retail and commercial space (ignoring the hotel and spa), new roads running through the property, and 1,702 parking spaces (1,016 above ground). All of this would be built in an already over-built and dangerous Forest Drive corridor.

Does this PFCP in any possible way demonstrate to the satisfaction of the City of Annapolis that reasonable efforts have been made to protect the Priority Forests and that the plan cannot reasonably be altered? The answer should be clear and the plans should be rejected by DNEP. The developer's PFCP filing's repeated assertion that their plan exceeds Forest Conservation Act requirements for retaining and planting forest cover entirely misses the point. State law and City Code treats Priority Forest in a much more protective fashion with a strong admonition that such designated forest "shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered."

Why not adhere to the conditions suggested by the owner of the property when the land was annexed into the City? Five-acre farmettes would yield at most 22 housing units and three-acre farmettes would yield at most 37 farmettes with no room for any other development. This is incredibly less intensive than the 475 housing units, the 115 health care units, and the shopping center, hotel, cultural arts center, and commercial complex planned at both ends of the property.

The clear language of the statute and the Annapolis Environmental Commission's comments filed with you on June 17, 2013 substantiate the need to reject the application outright. As noted by the AEC: "Annapolis has very few large blocks of forest left. The area along Crystal Spring Farm Road is one of the last. AEC agrees with DNEP's letter of Sep. 13, 2012: With the exception of physically isolated stands, the entire site is considered a contiguous forest per Natural Resource Article 5-1607 c (ii): "Contiguous Forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site" is a priority for retention and protection. Stand A, part of Stands B, C, D and Stand E are large vegetated tracts within the site, thus a priority for retention, and contiguous to forested tracts off site.

The justification for clearing priority forest appears entirely based on a desire to maximize the profitability of the project. This does not pass muster under the City adopted NR Article § 5-1607.

The City is requiring the developers to seek a variance and prove unwarranted hardship for clearing Priority Forest despite the protestations of the developers. As mentioned above, the diminution in value of the profitability of the property by reducing the extent of the development does not in itself create an unwarranted hardship. See our discussions of the statutes, regulations, and case law above in item number IV regarding unwarranted hardship that you also apply to Priority Forest.

The developers compare their current site plan to prior site plans as part of their justification for the current plan. This is entirely irrelevant, especially considering previous plans significantly exceeded the footprint proposed during the annexation hearings. Current site conditions, as described in the Forest Stand Delineation, are the legal starting point of a Forest Conservation Plan.

The Department of Planning and Zoning commented as follows on the previous FCP at Number 23. of their submittal DNEP sent to the developers on August 8, 2014: "Please describe, in detail, how the revised, Preliminary FCP comports with Resolution No. R-12-05 Revised Annexation of Katherine Properties. Please include reference to the Katherine Properties, Crystal Spring Development Concept in your compliance description. This Concept Plan, labeled as Exhibit 1, October 6, 2005 (referenced in Condition 19 of R-12-05 Revised), was relied upon throughout the entire annexation process as the applicant's intention for development. Since being approved, the Concept Plan was further relied upon as justification for the subdivision of Pony Club Estates, as this subdivided area was not included in the proposed 75 acre conservation easement."

A picture of those concept farmettes filed at the time of annexation consideration is shown above. All residential development was to be done with an equestrian theme. What happened to the farmettes, the equestrian theme residential units? Why should the City ignore this concept plan and allow the property to be so intensively developed to negate the concept plan filed with the annexation?

The filings by the developer disagree and contest that such a concept plan was even part of the annexation consideration. The current development plans have been called bait and switch by some. The City should not condone such actions.

The developer contends in their filings that they have created a 50+ acre wildlife corridor running through the central and southern portion of the property. In actuality, there is an 82+ acre wildlife corridor now consisting of a mostly mature forest of 80-100 year old trees designated a priority Forest for retention and protection. This addition by subtraction makes one question such filings as the clearance and fragmentation of forests is a major threat to forest dwelling species, including most of the 220 species of birds known to inhabit the site at some time of the year.

These larger blocks of forest are essential to Forest Interior Dwelling Species (FIDS), so much so they are given special protection in forests of the critical Area. These birds depend on such forests for feeding, breeding, raising young away from many predators, and for roosting. Some of the birds at Crystal Spring are officially listed as in decline and are on the U.S. Fish and Wildlife Service's Congressionally-mandated Species of Management Concern List. Cutting down 43.46 acres of contiguous older forest can in no way be seen as the creation of a wildlife corridor—it was already created beginning more than 100 years ago. The priority forest status given this forest and existing wildlife corridor should be honored.

VI. CITY'S TREE REPLACEMENT LAW SHOULD BE ENFORCED.

The City's Tree Replacement Requirements under City Code Chapter 17.09.070 are being ignored by the developers, who insist that this law does not apply to Crystal Spring, despite the City's insistence that it does.

The Tree Replacement Requirements apply to all developments when a grading permit, building permit, or site design plan review is required. The law allows the City to require the developer to plant two trees for each tree removed on site with a diameter between 18" and 24," and three trees for each tree removed with a diameter greater than 24". The FSD and PFCP do not even delineate trees between 18" and 24". Nor do the FSD or PFCP provide for such 2-1 or 3-1 replanting.

The developer did submit details showing there were 178 trees between 24" and 30" DBH, with ninety-nine of these large trees to be destroyed by the massive development plans. The developer contests that somehow City Code Chapter 17.09.070 should not apply to their development plan, hence there are no plans to retain and protect these larger trees nor are there plans to comply with the City Code's requirements for replanting three trees for each tree removed or for the 2-1 replacement of 18"-24" trees.

The City Code provides that the City may apply whichever provision is stricter where there is a difference between the FCA and the Tree Replacement Requirements. The law also intends the tree replanting to be on site unless this cannot be accomplished. The City should not ignore these provisions and fail to enforce the stricter provisions. How can the City even make a determination under the City's Tree Replacement Requirements, City Code Chapter 17.09.070, when the FSD and PFCP do not even advise the City as to the number of trees of 18"-24" diameter?

Further, the open meadow at the southern end of the property would be ideal for a replanting of these larger trees that could be removed and replanted rather than the whips or saplings typically required.

VII. THE DEVELOPER'S PLAN DOES NOT COMPLY WITH THE CITY'S COMPREHENSIVE PLAN; THE VARIANCE REQUEST AND CLEARING PRIORITY FOREST BASED ON ASSERTIONS OF COMPLIANCE SHOULD BE REJECTED.

The City's Comprehensive Plan (2009) delineates specific areas and the type of growth that can occur therein to assure the proper balance for the City of Annapolis. Developers frequently believe that the Comprehensive Plan can be disregarded and thus submit plans that are inconsistent with the Plan and environmental goals and regulations and make statements alleging compliance, and in this case, allege that rejection of their plans would amount to a constitutional takings. However, state law requires that the City's approval of developments like Crystal Spring be consistent with the Comprehensive Plan. See Maryland Land Use Code § 1-303.

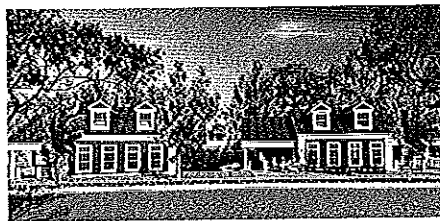
The City's Comprehensive Plan calls for the City to protect and restore environmentally sensitive areas and other natural resources within the City, and increase the City's urban tree canopy to 50 percent of its land area by 2036. The proposed development, however, would destroy 43.46 acres of Priority Forest and

impact drainage of some wetland areas and invade the 100' buffer of others in direct conflict with the Comprehensive Plan's mandate to preserve the forested character and retain natural features on site.

The developers argue that, through reforestation, the forest at Crystal Spring would increase to 50 percent coverage by 2036 but they confuse the City's goal of increasing overall forest coverage in the City with their plan to permanently reduce forest coverage on site by 43.46 acres and afforesting /reforesting only 5.13 acres on site to come up to 50 percent of the forest there now. The net effect of destroying 43.46 acres of forest will still be a loss of 38.33 acres of forest on the development site, making it all the more difficult for the City to achieve its goal. The previous PFCP called for 6.84 acres to be afforested.

The Comprehensive Plan for the Forest Drive Opportunity Area (Crystal Spring) calls for a limit of 139 or 140 housing units for this property with a maximum of 167,000 sq. ft. of commercial space. This plan would be abrogated in allowing 475 housing units, including the main CCRC building (289), the 113 non-age restricted town houses and the 33 single family homes with two-car garages south of the intermittent stream plus two 20 unit apartment buildings there.

Clearly, the 113 non-age restricted town houses are considered housing units. Contrary to claims otherwise, we firmly believe that the 289 apartments in the CCRC building in the north and the 40 apartments in two buildings in the southern end all with full kitchens, bathrooms, living and dining rooms, and separate bedrooms, constitute housing units in terms of the Comprehensive Plan and in common parlance. The 33 units in so-called cottages also at the southern end of the property are clearly housing units under any reasonable interpretation of the term. See the illustration below of two of the 33 single-family senior living homes taken from the developer's web site accessed on July 22, 2014 at: <http://www.crystalspringannapolis.com/about/site-plan-renderings>.



When the City submitted its Comp Plan to the state as required, the use of housing units clearly included all previously developed senior living facilities with full kitchens, bathrooms, living and dining rooms, and separate bedrooms where the units had separate addresses as they do at Bay Woods and other age restricted housing in the City. There is no definition of housing unit in the Comp Plan.

Section 21.72 of the City Code defines Institutions for Care of the Aged but the only place this definition is used in the Code is with respect to such Institutions needing special exceptions for almost all zoning categories in the City. We can find no other areas where such Institutions are not treated as housing units, especially not in the Comp Plan.

In further considering whether the 362 units at Crystal Spring are housing units under the Comp Plan, also note that all such units will be held in fee simple and must be purchased through National Lutheran Community and Services who would own the housing units. Under current plans, the 11 single family cottages with two-car garages proposed for the southern portion of the property would sell for nearly \$1 million for a 2,884 sq. ft. residence if the buyer wanted to get back 90% of the sale price when the property is re-sold after they move or die. In addition, there would be a monthly fee of \$7,000.

The Maison Court two-apartment buildings of 20 units each at the far southern end of the property would go for \$800,000-\$900,000 if the buyer wanted to get back 90% of the sale price when the property is sold. In addition, there would be a monthly fee of \$7,000. For units in these apartment buildings with only a 50% recovery of the cost, the price is \$600,000 and up and still with the \$7,000 monthly fee.

The CCRC six-story building's smallest 1-br unit at 893 sq. ft. would cost \$450,000 with 90% recoverable upon re-sale with a \$3,000 monthly fee, but the larger units run to \$900,000 with a \$6,000 monthly fee.

Do these housing units sound like an Institution for Care of the Aged?

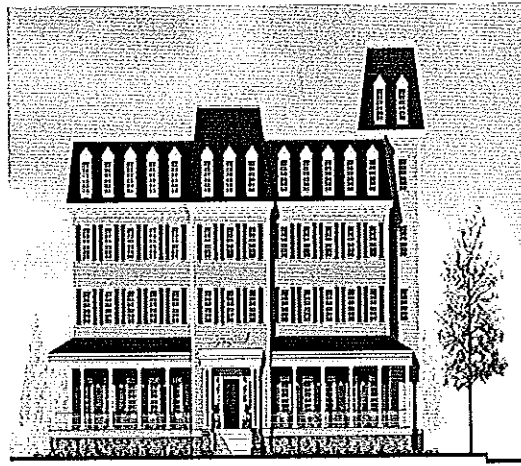
The City's Comprehensive Plan also specifically identifies the top one-third of the Katherine property nearest Forest Drive for "Urban Center Low" development. At page 25 of the City's Comprehensive Plan, this language appears:

"Urban Center Low areas are similar to Urban Commercial areas in terms of character and building heights, but allow for a mix of land uses that is similar to Urban Center areas. These areas consist of a mix of uses that include retail, office, restaurants, and residences. Typically these areas range from two to four stories in height and include a very balanced mix of residential and commercial land uses. Residential density typically ranges from ten to twenty units per acre of land depending on the intended character. These areas serve a smaller more localized population than Urban Center, and can function as a limited intensity, walkable destination for area residents."

The huge and sprawling CCRC three-winged building as submitted is six stories high. This 400,000 sq. ft. complex of the CCRC building has a footprint of 112,858 sq. ft. with a length of 1,546' and is 73' wide. This clearly does not meet requirements for Urban Center Low as dictated in the Comprehensive Plan and should be rejected. The 54,277 sq. ft. supermarket is a huge forest destroyer and, of course, the West Marine building has no defensible connection to seniors living on the site.

Further, the Comprehensive Plan calls for a limited intensity, walkable destination for area residents. This is violated with the construction of barriers proposed between the 113 town houses and the CCRC complex and village green.

As to the limit of 167,000 sq. ft. of retail or commercial space in the Comprehensive Plan, the PFCP provides for construction of 160,695 sq. ft. of retail or commercial space. However, the four-story, 80-room hotel (below) is not included in this calculation. This large commercial building should be included and we suggest that since adding this structure to the amount of commercial space would far exceed the Comprehensive Plan's limit, either the hotel or other commercial space should be eliminated.



THE 80 ROOM HOTEL AND SPA

Source: Developer's web site at: <http://www.crystalspringannapolis.com/about/site-plan-renderings>

The Annapolis Comprehensive Plan (2009) at page 33 of Chapter 3-Land Use and Economic Development provides as follows for the four Opportunity Areas which includes Crystal Spring:

“Policy 1. Growth will be directed primarily to four Opportunity Areas, illustrated in Figures 3-7 through 3-10 and reflected in the Future Land Use Map. Over the next decade, the City will formulate detailed land use and urban design plans or sector studies for each of the four opportunity areas.

1.1 The detailed area plans should identify the necessary role of the City and other public entities in facilitating redevelopment, including, for example, infrastructure improvements and zoning changes.

1.2 Each of the four opportunity areas should be developed as models for ecologically sustainable urban development.”

The City has not formulated or begun to formulate such detailed land use and urban design plans or sector studies for each of the four opportunity areas nor has the City identified the necessary role of the City and other public entities in facilitating redevelopment, including, for example, infrastructure improvements and zoning changes. And, nothing has been done in the required detailed land use and urban design plans to assure that the Opportunity Areas are developed as models for ecologically sustainable urban development.

How can the City review and approve such a massive development in the Forest Drive Opportunity Area BEFORE these required plans, urban design, sector studies, and elements to assure Crystal Spring is developed as a model for ecologically sustainable urban development? The Comp Plan anticipated these planning and design plans would be completed development plans were reviewed and approved.

Further, the Annapolis Comprehensive Plan at page 96 of Chapter 7- Environment, Policy 2.5 provides:

“To help achieve the City’s environmental goals and ensure high quality development, the City will create a Site Design Manual that will replace the 1986 Parking and Landscaping Manual. The Site Design Manual will provide guidance on design of the landscape on public and private development sites. This will include planting with a preference for water conserving plants and plants tolerant of urban soils, rainwater management, tree preservation, and soil management. Best management practices for handling the impacts of development, use of pervious and impervious paving materials, design of parking areas,

lighting, internal circulation, and other matters related to site development should also be addressed in the Manual.

The Site Design Manual will aim to make the site design process more predictable. The Manual will be coordinated with the City's Green Building standards and other sections of the City Code governing trees and other planting, grading, critical areas, and rainwater."

No such Site Design Manual has been completed to guide the development at Crystal Spring.

VIII. DEVELOPER CONTINUES TO DEFY CITY IN DEVELOPING SOUTHERN END.

Mayor Pantelides has publicly stated that has directed the developers not to develop south of the intermittent stream and to use that land for on-site reforestation or afforestation from forest cleared to the north.

This was ratified in the Planning and Zoning comments submitted to the developers on August 8, 2014 through DNEP. In Number 18, P & Z states: "Number 5 states that forest clearing in the rear portion of the site is limited to immature forest with invasive species. Again, not completely accurate as priority forest is impacted and drainage outfalls are proposed on steep slopes. **The entire area may be best served with an invasive removal program, reforestation and relocation of the CCRC units. While the southern portion of the site contains the largest non-forested area, it also serves as two of the three natural drainage outfalls, adjacent to Resource Conservation critical area. The southern area should be protected from development and used as justification, through reforestation, to support development in the northern site area...."**

This has not been done in the latest PFCP and the developers continue to defy the Mayor and Planning and Zoning.

The first illustration in Item VII above, of two of the 33 cottages (single family housing units), is taken from the developer's web site accessed on July 22, 2014 at: <http://www.crystalspringannapolis.com/about/site-plan-renderings>. These homes are at the southern end of the property, below the intermittent stream and removed from the CCRC main building and the village green. The construction of these single-family homes will destroy 2.56 acres of Priority Forest, cause more road construction, and contribute more stormwater runoff. This isolation is not Smart Growth.

Furthermore, in defying the Mayor and P & Z, the developers are ignoring without justification the State Forest Conservation Act, Natural Resources Article, § 5-1607(a), which requires that on-site afforestation and reforestation be given first priority. Given the amount of Priority Forest that would be disturbed under this plan, the area south of the intermittent stream can and should be dedicated to onsite afforestation and reforestation. DNEP has the clear authority—and duty--under the provisions of the Forest Conservation Act to require a move of all building to the north. Rather than cite all the various legal authorities, please see the attached Memo on this point which was previously sent to you. Please include this as part of our comments and incorporate it by reference here.

Natural Resources Article, Section 5-1607 of the Forest Conservation Act (mentioned above), which the City has adopted by reference, imposes a series of mandates upon the development process which the City and developers must honor. These mandates include giving Priority Forest and specimen trees the highest priority for retention and protection and requiring that they be left in an undisturbed condition unless the developers prove to the satisfaction of the City that these forests and trees cannot be retained and protected, that reasonable efforts have been made to protect them, and the plan cannot reasonably be

altered. A variance is required, and unwarranted hardship must be proven for the clearance of certain Priority Forest or trees.

If the City is to allow any clearing of these protected forests and trees, the City has a statutory duty to retain and protect as much of these forests and trees as possible. In addition, once such forest is cleared, Section 5-1607 imposes a series of mandates upon the development process, which the City and any developer must honor, including:

Section 5-1607.

(a) The preferred sequence for afforestation and reforestation shall be established by the State or local authority in accordance with the following **after all techniques for retaining existing forest cover on-site have been exhausted**:

(1) Those techniques that enhance existing forest and involve selective clearing or supplemental planting on-site;

(2) On-site afforestation or reforestation may be utilized where the retention options have been exhausted. In those cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section;

(3) (i) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan may be utilized where the applicant has demonstrated that no reasonable on-site alternative exists or where:

1. Any on-site priority areas for afforestation or reforestation have been planted in accordance with subsection (d) of this section; and
2. The applicant has justified to the satisfaction of the State or local jurisdiction that environmental benefits associated with off-site afforestation or reforestation would exceed those derived from on-site planting.

The above referenced statutory mandate requires that all retention options be exhausted first and then afforestation or reforestation must be done on-site unless the applicant has demonstrated that no reasonable on-site alternative exists. There are exceptions but they do not apply at Crystal Spring. This is especially important where the City allows Priority Forest and trees of significance to be cleared. The 13-acre meadow on-site is the ideal place for the mitigation planting as there are few on-site alternatives.

In further support of this protection and afforestation of the southern end of the property, we asked a forestry expert with significant expertise in forests around the Bay and their benefits to examine the meadow at the southern end of Crystal Spring. He was asked to evaluate the ecological values of the meadow, the meadow afforested, the meadow developed, and the impacts of clearing 2.56 acres of forest at the southern end.

The expert we consulted, Eric C. Sprague, has years of experience in such forestry assessments and edited and co-authored the comprehensive, definitive report *State of the Chesapeake's Forest*, addressing the role, trends in condition, and threats to sustainability of forests in the Chesapeake Bay watershed. This report was done jointly by The Conservation Fund and the U.S. Forest Service. Eric is now the Director, Chesapeake Forests Program with the Alliance for the Chesapeake Bay in their Eastport office and also lives in Eastport. He is the Chair of the Governor's Sustainable Forestry Council.

Among his conclusions were these:

***Air Quality.** If 13.3 acres of meadow at Crystal Spring Farm were planted with trees, residents would see ozone pollution reduced by 750 pounds per year and dust, smoke and other particulate matter by 400 pounds per year or the equivalent of removing 520 cars from the road each year.

If the existing 2.56 acres of trees were removed, the Farm would lose the ability to remove 144 pounds of ozone and 75 pounds of dust, smoke, ash and other particulates each year.

***Water Quality.** Crystal Spring Farm is part of region with high value to water quality. The loss of trees at Crystal Spring will have a larger effect on water quality than other less important regions.

If 13.3 acres of meadow at Crystal Spring Farm were planted with trees, Annapolis would reduce nitrogen loads to the Chesapeake Bay by nearly 100 pounds per year. Phosphorus loads would be reduced by 5 pounds and sediment loads by 1,584 pounds per year.

If the existing 2.56-forested acres were lost, Annapolis would need to find other ways to reduce 18 pounds of nitrogen, one pound of phosphorus, and 305 pounds of sediment every year to maintain existing water quality at the site.

If the meadow was developed instead of forested, the site would see an increase of 148 pounds of nitrogen, 14 pounds of phosphorus, and 7,196 pounds of sediment pollution each year.

***Carbon Sequestration.** Trees sequester greenhouse gases emitted from cars, power plants and other sources as they grow and so help to offset emissions from Annapolis residents and businesses. If protected in perpetuity, 13.3 acres of tree plantings on the meadow at Crystal Spring farm would sequester 632 metric tons of carbon over 100 years. This is the equivalent to the annual carbon emissions of 133 cars. Losing the existing 2.56 acres of existing trees would effectively remove 123 metric tons of carbon from the City's long-term "carbon bank."

***Soil Resilience.** Soil types vary in their resilience or ability to bounce back from disturbances. Sites with high resilience are more forgiving to a range of disturbances like development than those with low resilience. Nearly 80% of the meadow soils at the Farm are classified as "Annapolis" soil (AoB) and have low resilience to disturbance.

***Forest Productivity.** While all woodlands have value to wildlife, water quality and clean air, some woodlands are more fertile and better able to support plant and tree growth than other sites. The sandy loam soils on the Crystal Spring Farm meadow are highly productive. Therefore, planting trees on this site has potential to create healthy woodlands and their associated natural benefits.

***Critical Area.** While the meadow is just outside of the critical area, new tree plantings will only enhance the water quality and wildlife habitat services provided by the buffer. New trees will also increase the resilience of the Critical Area to flooding, forest pests and other disturbances.

Sprague's short report is attached along with his impressive C.V.

Such findings clearly state the case for protecting this meadow for afforestation and preventing the clearing of an additional 2.56 acres of Priority Forest. Requiring the developer to move all development north of the stream and to afforest the 13 acres would help offset some of the air and water quality and wildlife impacts from the destruction in the north of Priority Forest and specimen trees.

The City has the duty to apply and enforce the FCA for the protection of the public health, safety, and welfare and should do so.

IX. THE TRAFFIC GENERATED BY THE PROPOSED DEVELOPMENT VIOLATES THE COMPREHENSIVE PLAN AND STANDARDS FOR TRAFFIC CONGESTION.

We submit that the limits projected in the Comprehensive Plan for this property – 139-140 housing units and 167,000 sq. ft. of commercial development – also were adopted in recognition that Forest Drive is severely overburdened by traffic from existing development within the corridor. Although access to Forest Drive is controlled by the County, and access to Spa Road is under State control, the City must assume responsibility for the amount of additional traffic that development of this property will generate.

Whether or not the City persists in wrongfully alleging that only the 113 non-age restricted townhouses count against the 139-140 housing unit limit and in not counting the proposed hotel against the limit on commercial space, the City nevertheless must recognize that the 362 senior housing units and hotel would generate significantly more traffic than would be true under the housing unit and commercial space limits in the Plan. Among other proper planning objectives, the spirit of the Comprehensive Plan is to limit exacerbation of the deplorable and dangerous traffic situation on Forest Drive. The limits on housing units and commercial space should be interpreted and applied so as to serve that legitimate goal.

In *Board of County Commissioners v. Gaster*, 285 Md. 233 (1979), the Court of Appeals upheld Cecil County's denial of approval for a proposed subdivision that would have exceeded density limits adopted by the County to implement its comprehensive plan. However, the Court further noted "if this proposed subdivision were approved, the streets contemplated in it would be spewing traffic out onto a county road which has poor vertical and horizontal alignment, poor sight distances, and narrow width . . . [T]his in itself was a sufficient basis for disapproval of the subdivision plat by the commission." 285 Md. at 249, emphasis added.

Similarly, the limits stated in the Annapolis Comprehensive Plan should be interpreted and applied properly to include all housing and commercial space on the Crystal Spring property, if only to limit further degradation of the traffic situation on Forest Drive.

As the developer concedes, prior to and at the time of annexation almost 10 years ago, it was assumed that a functional vehicular Relief Road would be built within the next several years. The route envisioned to be constructed at that time would have branched off from Aris T. Allen Boulevard near the headwaters of Church Creek, heading in a southeasterly direction and continuing generally parallel to Forest Drive and south of the existing Newtowne 20 neighborhood, bisecting the Crystal Spring property and connecting to Spa Road and then intersecting with Forest Drive at the Gemini intersection.

The future need for the Relief Road was highlighted in the City's 2009 Comprehensive Plan as a key element needed to try and mitigate expected growing congestion. Indeed, the future existence of this planned Relief Road across the Crystal Spring Farm land was used by the developer to support the annexation of Crystal Spring into the City and help relieve the increase in traffic from development of the annexed property. It was obvious to everyone that any development of the Crystal Spring land would cause new traffic volumes that had to be addressed.

The estimated costs for this Relief Road was approximately \$10 million in 1999 based on a preliminary study at that time. Costs in 2015 would far exceed that amount. Recognizing the need to have future developers pay for this traffic relief road, subsequent resolutions passed by the City Council annexing various parcels of land mandate that the developers will have to pay an "equitable contribution" of the

cost of building this Relief Road. Condition 24 in the 2005 City Council resolution (Resolution No. R-12-05 Revised) approving the annexation of the land containing the Crystal Spring Farm mandates:

“The proposed relief road is expected to cut across the [Crystal Spring] property to connect Spa Road with Aris T. Allen Boulevard. The developer of the property will make an equitable contribution to the cost of construction of the relief road.... The developer shall transfer to the City the land needed for the relief road right-of-way as part of the development process.”

The plans for connecting a Relief Road to Aris T. Allen were never subject to a definitive study, but many questioned its viability due to factors such as safety, costs, environmental impacts, and effectiveness. It has now been conceded by the City in recent months that this critical project to address the ever increasing Forest Drive congestion is not viable. The September 24, 2014 Five-Year Annapolis Comprehensive Plan Update states, “At this time it has been determined that the Forest Drive Relief Road is not feasible.”

As an alternative to paying an “equitable contribution” to the former Relief Road, the City insists that the entrance into the Crystal Spring development off Spa Road should do two things. It should extend to the west far enough to connect up with Skipper Drive, and it should extend east to cross Spa Road and connect to the traffic light at Gemini Drive and Forest Drive. Planning and Zoning insisted on this in its comments in August 2014 on the last PFCP, but now the developer is balking and has not submitted plans for this road’s construction in the latest PFCP filing, or its impacts to trees, drainage or other aspects of the site’s development. This is another major gap in the filing.

No FCP should be approved until this significant issue is resolved and any forest clearing, stormwater and drainage issues, and other impacts examined as part of this road.

X. THE DEVELOPERS USE OF SMART GROWTH TO JUSTIFY A VARIANCE AND CLEARING PRIORITY FOREST SHOULD BE REJECTED.

The latest submittal by the developer again goes into quite a bit of detail about how the massive, sprawling development conforms to the principles of and is Smart Growth. The PFCP contains one document (among many) entitled Forest Clearing Justification. This document devotes five full pages to Smart Growth of the 22 pages of justification for the clearing of 43.46 acres of Priority Forest and trees of significance, including 117 trees of greater than 24” DBH. The use of Smart Growth to justify such forest and tree clearing is incomprehensible. In reality, the current proposal is the opposite of Smart Growth.

Former Governor Parris Glendening has carefully examined the proposed development plans and has repeatedly stated that the Crystal Spring development does not meet the principles of Smart Growth nor is the plan before the City Smart Growth.

In a letter submitted to you today in which he comments on the PFCP, the Governor states that “I make these points to emphasize how disappointing it is to see in my own community a typical sprawl development with considerable destruction of important forestland and other environmental damage be presented and defended as ‘smart growth.’ I must be very clear about this. The proposed Crystal Spring development project and most specifically the Preliminary Forest Conservation Plan filed with the plan is not smart growth.... Based on my understanding of the filings, I join with many neighbors and colleagues in urging you to reject outright the Crystal Spring Preliminary Forest Conservation Plan and unequivocally can state that the current plans do not meet Smart Growth criteria. Using Smart Growth to support the clearing of 43 acres of mature, contiguous forest designated by State and City law as a priority for retention and protection is disingenuous since this development flagrantly violates Smart Growth principles.”

Governor Glendening is widely known as the father of Smart Growth and is identified with this concept more than any person in America. He developed and gained enactment of Maryland's Smart Growth law. He is the President and founder of Smart Growth America's Leadership Institute in Washington, DC and he speaks all over the country and world advising policy makers on Smart Growth principles. The two-term Governor has become engaged in the Crystal Spring issue as he resides with his family in Chesapeake Harbour and they drive pass the Crystal Spring site daily. He has joined with us in trying to gain the necessary changes to the development plan to bring it into compliance with Smart Growth principles, environmental, and other planning laws.

Governor Glendening fully supports our efforts to significantly scale back and improve the development, including moving all the development to north of the stream rather than isolate 73 residences at the far southern end. He also makes clear that simply moving these residences to the north should not in any way signal his—or our—support for the project. Even with such a move, the project still fails to meet Smart Growth principles.

Governor Glendening is lending his name and signing-on to this comment letter with the other signatories primarily because of the Smart Growth issues and supports the call for the City to reject the pending. Please refer to his detailed comments in his letter of today's date.

It is important to note that he signs on this letter and submits his learned comments as a concerned citizen, and they are independent of Smart Growth America.

Further amplifying the developer's shortcomings in not meeting Smart Growth principles, Planning and Zoning submitted comments to the developers on August 8, 2014, noting that: "Where Crystal Spring could be improved relative to Smart Growth is the conservation of additional natural resources, defined transit opportunities, efficient use of land and more compact mixing of land uses." See page 5, Number 1 of the Planning and Zoning comments.

The latest plan does nothing to respond to this critique, fails to show the relief road, a bike path, and other compact and integrated design elements urged by P & Z.

The developers' use of Smart Growth to justify the flawed PFCP as well as the variance and City exemption for clearing Priority Forest should be rejected out of hand. For the City to approve the FCP and grant a variance and allow the developers' clearing of Priority Forest under Smart Growth or otherwise and for the City to find that reasonable efforts have been made to protect them and the plan cannot reasonably be altered would be ludicrous.

Of course there are more reasonable efforts that can be made and the plan can be reasonably altered by eliminating much of the non-age restricted development at the heavily wooded north end of the property as mentioned above, and by eliminating all building south of the intermittent stream. This and better clustering of the remainder of the development out of wetlands and Priority Forest land, if done well with supporting infrastructure, might meet the principles of Smart Growth.

XI. THE POTENTIAL LOCATION OF CAMP PAROLE 2 ON CRYSTAL SPRING REQUIRES A PHASE I ARCHAEOLOGICAL ASSESSMENT BEFORE APPROVAL OF A FCP.

DNEP and Planning and Zoning received a report from a group of well-respected local historians on the location of Camp Parole 2. Camp parole 2 was an important Civil War site and the evidence is that it was located on or near Crystal Spring. Below is the memo sent by the historians to City officials on August 5, 2014. Also, attached is the Camp Parole 2 report referenced in the Memo. The Memo is a fascinating

document on an interesting phase of Annapolis history. It includes maps, soldier's notes, and claims made for damages to crops, farm animals, and harassment of women on farms.

The other attachment is a list of the credentials of these historians, members of the Camp Parole 2 Subcommittee of the Annapolis History Consortium. The developers are aware of this report and the owner of the property has been aware of the potential site of Camp Parole 2 on her property since at least 2008, when she received a report from Dr. Jean Russo, which the owner commissioned to ascertain if one of her ancestors was actually stationed at the site of Crystal Spring or Mas-Que farm.

A representative of the historians who is on the Annapolis Historic District Commission, Rock Toews, met with Lisa Craig, who is the City historical officer, Sally Nash, and Tom Smith, all of P & Z, on August 22, 2014 and presented the report. All agreed a Phase I assessment archeological survey of the site would need to be done for Camp Parole 2 and any artifacts there. Sally Nash agreed this would be required at the time a site design is submitted. This Phase I survey is just what is needed to help pinpoint the location of Camp Parole 2 and to begin to do some digging on the Crystal Spring and Mas-Que Farm properties to locate Civil War artifacts, including potential posts or foundations.

This Phase I assessment will entail research, archaeological work, digging at the site, and analyses before a site plan can be approved. If the Phase I preliminary assessment warrants, more detailed Phase II and III evaluations would be necessary, and the site plan may have to be altered to protect the historical integrity of the site.

As we pointed out to you in a memo sent via email on December 31, 2014 the problem with this is that such a Phase I study and evaluation is ordered and done under the auspices of the Planning and Zoning Department during site plan and planned development review. Such a study has not been required by DNEP for the Forest Conservation Plan. In fact, there have been no comments from the City or developer in the FCP regarding the potential location of Camp Parole 2 on or near the site.

Under the State Forest Conservation Act adopted by the City, Section § 5-1607(c)(2) provides that: The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that the applicant qualifies for a variance under § 5-1611 of this subtitle:

(i) Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;

(ii) Trees that are part of a historic site or associated with a historic structure or designated by the Department or local authority as a national, State, or local Champion Tree; and

(iii) Trees having a diameter measured at 4.5 feet above the ground of:

1. 30 inches; or

2. 75% of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department.

Any trees associated with a historic site or structure are to be noted in the FCP and the applicant must demonstrate that all techniques for retention have been exhausted and why these trees cannot be left undisturbed, AND they must obtain a variance for any clearing of these trees. The applicant must also

demonstrate where on the site and how afforestation or reforestation for any tree removal will be accomplished in such a Priority area.

While the City only received this historical report three days before the completion of its last FCP review and comments, you at DNEP should now require such a Phase I assessment before further processing of the PFCP to determine where on the site there may be any trees associated with an historic site or structure and whether a variance will be necessary to clear any of these trees. DNEP should not approve a FCP without the required information on the presence of trees associated with a potentially significant historic site and perhaps the footings or foundations of historical structures from Camp Parole 2.

Given the documentation submitted by the Camp Parole 2 Subcommittee of the Annapolis History Consortium, a submittal by the developers of a FCP without a Phase I assessment would be incomplete and must contain information on any trees associated with an historic site or structure. City approval of a FCP would be premature until such a Phase I assessment is completed and the information submitted on such trees associated with a historic site or building. These trees are to be noted and protected in the FCP as priority trees and a variance is required for their clearing with the necessity to prove unwarranted hardship, the same as trees of significance with a DBH greater than 30. The thorough archaeological assessment and survey should be conducted in cooperation with the Annapolis History Consortium experts.

The failure of the developers to submit such information in their new preliminary FCP is enough to send the FCP back to them as incomplete.

The following email message was sent to the City from the historians with the report:

From: JVL RMD@aol.com
Sent: Tuesday, August 5, 2014 3:24 PM
To: LMCraig@annapolis.gov
Cc: slp@annapolis.gov ; mayor@annapolis.gov ; dajarrell@annapolis.gov ; SNash@annapolis.gov ; ETS@annapolis.gov ; Mbroadbent@annapolis.gov ; fjb@annapolis.gov
Subject: Report of the Civil War Subcommittee on Location of Camp Parole 2

FROM: Camp Parole 2 Subcommittee of the Annapolis History Consortium: George Allen Hughes, Jane W. McWilliams, Willard R. Mumford, Jean B. Russo, and Rockford E. Toews

TO: Lisa M. Craig, City of Annapolis Department of Planning and Zoning, Historic Preservation Division
SUBJECT: Report on the Location of Camp Harris and Camp Parole 2 and the Need for 1) Historical Site Review and 2) Inventory and Archaeological Investigation at Crystal Spring

Dear Ms. Craig:

Building on years of efforts, a Subcommittee of the Annapolis History Consortium has recently probed the historical records and documents to pinpoint the exact location of Camp Parole 2. The Annapolis History Consortium is a local group of about 100 professional and amateur historians and a number of its members have long been interested in establishing the location of this important Civil War site in or near Annapolis. This Union Camp housed from 3,000 to 20,000 Union soldiers from September 1862 to July 1863 when it was moved to the area now known as Parole.

Our research revealed that a camp and training ground for the Fifth New York Cavalry and First Vermont Cavalry were located on a farm near Annapolis in November 1861 and occupied by those troops until late

March/early April 1862. This camp was called Camp Harris. There is strong evidence that Camp Harris was later the site of Camp Parole 2, and there is some evidence that this site was on or near the current Crystal Spring Farm and Mas-Que Farm sites.

Camp Parole 2 was one of three such camps established by the Union to provide living quarters for Union soldiers who had been captured and "paroled" and who could not rejoin their units to fight until they could be formally exchanged, or were mustered out of service. The other two Parole Camps were near Columbus, Ohio and at Jefferson Barracks in St. Louis, Missouri. Because the population of Annapolis in 1860 was 4,529 and that of Anne Arundel County was 23,900, Camp Parole 2, with as many as 20,000 men, would have had a significant impact on the City of Annapolis and the surrounding County and its people and farms, especially at the site of the encampment.

We know from the research that if Camp Parole 2 was not located directly on Crystal Spring Farm or Mas-Que Farm, it was undoubtedly very close to these properties. We conclude that a persuasive case can be made from the historical research that there is sufficient reason to believe that the Crystal Spring Farm property contains significant Civil War artifacts and is perhaps the last undisturbed ground associated with Camp Parole 2. Any approval of development at Crystal Spring must recognize the importance of this site as further research may reveal that Camp Parole 2 occupied at least part of the site. While there is no conclusive proof that the two camps (Camp Harris and Camp Parole 2) were on land that is now part of either present-day Crystal Spring Farm or Mas-Que Farm, we now have better information about adjacent landowners so that a more thorough search can be made of the Quartermaster General's records at the National Archives for additional Camp Parole 2 claims to try and establish the exact location.

The fact is that Annapolis played a crucial role in the Civil War. Whether because there were no battles fought here or because of the town's desire to put a very divisive period behind it, this part of our history has been sorely neglected. We have a chance to recover some of that important story, not just for Annapolis but for the countless people who had an ancestor paroled here.

We therefore recommend that there be an archeological investigation of Crystal Spring before any land disturbance begins to determine what physical evidence there is to help chronicle this story and to analyze this evidence for historical significance before the chance is forever lost.

The City Code, at 21.62.060, Scenic, Historic, Archaeological and, Landmark Sites and Views, gives you and the City ample authority to direct such a site investigation to document historical features of the site and historical artifacts. The City Code provides that where historical and archaeological sites and features are located on or adjacent to a proposed development, they "shall be preserved and protected to the maximum extent as practicable through site design, building location, and parking layout." We would be glad to work with you on such a survey.

Conducting a thorough site survey could assist in determining the location of the important Camp Harris and Parole 2 sites. During and subsequent to such a site survey, any disturbance of the ground in the area should be monitored for artifacts related to Camp Harris and Camp Parole 2 and these artifacts should be preserved.

Our Report substantiating these conclusions and recommendations is attached as are short resumes of the five Subcommittee member historians.

Respectfully Submitted,

George Allen Hughes

Jane W. McWilliams
Willard R. Mumford
Jean B. Russo
Rockford E. Toews

XII. THE GRADING AND SWM CONCEPT PLAN SHOULD BE REJECTED.

Under Maryland Department of Environment (MDE) regulations as detailed in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control (December 2011), a developer may not grade more than 20 acres of land at a time when development commences. This means the proposed PFCP must be rejected as forest conservation plans and grading, sediment control, and stormwater plans have been filed to allow for the clearing of more than 20 acres at once. The developers have responded to this shortcoming noted by DNEP by simply stating "A Sequencing Plan will be provided in connection with the grading permit."

In reviewing a PFCP for approval, it is necessary to assure compliance with this sequencing law so as to prevent loss of more forest, damage to forest, and adverse water quality impacts from stormwater and erosion. The plans clearly do not comply with MDE's required phasing to avoid soil erosion and stormwater runoff problems. MDE's requirements provide:

"4. Minimize disturbed areas.

To reduce the potential for erosion, the extent and duration of soil exposure must be minimized. Phasing and sequencing may reduce the overall sediment control practice requirements. A well designed plan will include phases or stages of development that ensure only areas under active development are exposed.

Grading is to be completed and stabilized as soon as possible after it is initiated. In order to realize these goals, the establishment of grading units is required. As defined by regulation, a grading unit is the maximum contiguous area allowed to be graded at a given time and is limited to 20 acres. Requiring adherence to a maximum disturbed area on a project will limit mass grading, improve phasing and sequencing, and encourage timely stabilization."

MDE also notes that these revisions include more stringent stabilization requirements and establishing grading unit criteria. Additionally, the Standards and Specifications now describe how an erosion and sediment control plan must be designed in concert with a site's stormwater management plan as required by the Stormwater Management Act of 2007. The Act requires an integrated review of erosion and sediment control plans and stormwater management plans via a comprehensive plan review process to ensure that environmental site design (ESD) is implemented to the maximum extent practicable (MEP) on all sites. ESD is defined in the Act as "using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources."

As part of this approach, the erosion and sediment control regulations now require developers, designers, and plan review agencies to consider runoff control from the start of the land development design process. As one of the changes, the 20 acre limit was adopted to assure that this phased approach for large land clearing would result in the first 20 acres being effectively stabilized with proper sediment and stormwater controls instituted before the next phase of land clearance is allowed. Therefore, DNEP should reject the new PFCP until this defect is corrected.

The replacement of Priority Forest with huge amounts of impervious surfaces presents an enormous water quality problem. In meetings with the developers they have pledged that the stormwater from the site after development will be less in volume and cleaner than before development from the site. The developer's current web site states that: 100% storm water retained / treated on site including gray water

recycling. See <http://www.crystalspringannapolis.com/userfiles/file/economic-benefits-forest-conservation.pdf> Accessed January 29, 2015.

The plan submitted falls well short of meeting this pledge. In reality, much more stormwater flows from the site untreated, including from the southern end where the meadow and 2.56 acres of Priority forest would be developed. Please see the comments below in Item XV concerning the stormwater remediation proposed by the developers that will not work to reduce stormwater and pollutants to Crab Creek because of flaws in stormwater management and questionable benefits from such remediation as proposed.

Specifically, we have cited Developed Drainage Areas 2 and 2A at the northern end of the site that would substantially increase untreated stormwater flows as well as from Developed Drainage Area 4 At the southern end of the property. The development of the 33 cottages and two 20-unit apartment complexes and a recreation center with parking spaces and new roads at this southern end would drain a great deal more of polluted stormwater offsite directly to Crab Creek. As the City has previously commented on previous PFCP's, because of the soil types there and some slopes, there are serious erosion concerns.

In reviewing the stormwater plans, there are areas of development lacking any stormwater management whatsoever, yet alone the Environmental Site Design (ESD) required. Further, while ESD methods are mentioned as part of the stormwater management system including cisterns and drywells, pocket wetlands, and rain gardens, the stormwater management plans do not show them nor their locations relative to forest and wetland resources. The treatment of stormwater via submerged gravel wetlands has been contested by the City, the AEC, and others previously, especially given groundwater issues and other problems.

The increased flow of untreated and treated stormwater from the development site both in the south and the north will exacerbate existing stormwater and erosion problems, not improve them as suggested by the developers. Moving all development north of the intermittent stream and reducing the footprint in the north, thus protecting more forest, are essential to achieve a no net increase in stormwater volume, rate, and pollutant loads.

The stormwater submittal by the developers needs to be sent back as it needs a lot more work and detail.

Urban stormwater runoff in Annapolis and Anne Arundel County is by far the number one source of Bay choking nutrients, sediment, and toxic chemicals. EPA Bay program data shows that Crab Creek and the South River are seriously impaired waters and the main source of pollutants to the South River system is stormwater runoff from developed land—42 percent of the nitrogen, 59 percent of the phosphorus, and 76 percent of the sediment choking the River comes from stormwater runoff, far more than from any other source. The City should not allow such a massive, sprawling development and the elimination of 43.46 acres of stormwater-absorbing forest.

XIII. PROPOSED ROAD CONSTRUCTION SHOULD NOT BE ALLOWED.

The developer's newly submitted plan still includes a significant change to the current Crystal Spring Farm Road which is now graveled or dirt. They would re-develop the road from at grade to a height of 4-6 feet. This would entail significant construction on either side of the road destroying more forest, causing more stormwater runoff from the road and steep slopes created on either side of the road, and possibly impacting wetlands on either side of the road. Drainage from a roadway increased from grade to 4-6 feet would increase the stormwater runoff for the life of the road.

This is why DNEP in their comments of last August on the previous PFCP commented to the developers that "It is recommended that Crystal Spring Farm Road retain its existing grade."

The construction of a new road at a height of 4-6 feet should be rejected.

XIV. WETLAND IMPACTS NOT MINIMIZED UNDER NEW PLAN.

At page 3, number 11 of the Planning and Zoning comments on the last PFCP the developer is directed to change the plans as follows: "Page 6 of the FCJ notes the relocation of the main CCRC building from the middle section of the site to the front Village area....the relocated CCRC building includes disturbance to non-tidal wetland buffer 'B'.... the regrading of existing Crystal Spring Farm Drive, existing road grade elevate between 6 and 10. ft. creates disturbance within non-tidal wetland 'B', its buffer, steep slopes adjacent to the intermittent stream (wetland 'D') and specimen trees adjacent to steep slopes. It is recommended that Crystal Spring Farm Road retain its existing grade." This instruction has not been complied with as the CCRC building has not been resized or moved slightly to conform with the directive and the road plan submitted continues to elevate the road 4-6' above grade.

The CCRC building encroaches on the minimum 25' wetland buffer required by law.

DNEP comments on the last PFCP also express concerns at page 6: "Please eliminate the various retaining walls and construct at grade to reduce the impact on adjacent forest and non tidal (wetland B)." P & Z also submitted similar comments. The developer's new plan still has such retaining walls in many places.

Also of note is that the May 2011 sketch plan for the site showed a CCRC apartment building of 94,000 sq. ft. and of four stories; the current plan has grown that building substantially to 112,858 sq. ft. while also increasing the height to six stories. The developers contend they have downsized. DNEP and P & Z must not accept this current plan that continues to invade wetland

XV. STORMWATER REMEDIATION PROJECTS ON TWO DRAINAGE SYSTEMS NOT A SUBSTITUTE FOR PROTECTING THE FOREST, WETLANDS, AND NATURAL FEATURES ON SITE.

The developers plan to mitigate two offsite impaired stormwater drainage systems. However, the science is clear that there is little evidence that stream restoration projects such as the two the developers have contracted for at Crystal Spring will have any real effects on water quality as compared to the damage caused by not protecting the natural systems of forest and wetlands that naturally and effectively attenuate stormwater flows.

We again would encourage you to carefully look at the following web site and the collection of papers on the topic of the lack of demonstrable water quality benefits of stream restoration projects. http://palmerlab.umd.edu/bernhardt_and_palmer_2011_restoration.pdf. Dr. Margaret Palmer is a co-author of one of the papers. She is from Maryland and is a noted expert on stream morphology and water quality.

The Ecological Society of America examined the issue of Evaluating River Restoration and published seven papers evaluating the ecological outcomes of river and channel restoration projects in the eastern United States (including in Anne Arundel County) and in Western Europe. Here is the combined assessment:

"Unfortunately, the conclusions of these papers are sobering. Empirical evaluation of a variety of channel-based restoration projects discovered little evidence of ecologically

successful outcomes. Violin et al. find that urban stream restoration efforts in the southeastern United States had no demonstrable effect on habitat diversity or on macroinvertebrate communities. More disheartening, Louhi et al. find that several restored streams in Finland have stream invertebrate communities that are depauperate relative to unrestored upstream reference reaches even 15 years following restoration. Sundermann et al. find that most of the restored streams they sampled in Germany show no measurable improvement in macroinvertebrate communities, and the few that do are close to intact, forested catchments.

Sudduth et al. report that restored urban streams in North Carolina have significantly higher temperatures than unrestored urban streams as a result of removing riparian trees to facilitate restoration projects. Filoso and Palmer show that efforts to reduce the flux of nitrogen to coastal waters through hydrogeomorphic stream restoration approaches are rarely successful. Ja'hnig et al. document the existence of different perceptions of restoration success and show that, according to data from river restoration projects in Germany, water managers tend to be overly positive in their self-evaluation of restoration projects."

One of the papers cited above by Filoso and Palmer, is written by two Maryland experts on stream morphology and water quality, Drs. Solange Filoso and Margaret A. Palmer and is entitled *Assessing Stream Restoration Effectiveness at Reducing Nitrogen Export to Downstream Waters*. These scientists look at stream restoration projects in Anne Arundel County, including ones that drain to the South River such as at Wilelinor Estates.

At the outset, the researchers in their 2011 paper find that "In regions that suffer from coastal eutrophication, it is unclear whether stream restoration does in fact reduce nitrogen (N) flux to downstream waters and, if so, by how much and at what cost." They found that the nitrogen flows downstream from the Wilelinor Stream Valley site actually increased in more storm events than decreased. They clearly conclude that it would be best to look upstream and reduce nitrogen flows from existing lands as stream restoration as practiced might not reduce nitrogen flows at all, and even when it does, it is on the order of less than 5 percent.

Their study is in *Ecological Applications*, 21(6), 2011, pp. 1989–2006, by the Ecological Society of America. Also please look at another more recent study: *Compensatory Mitigation for Streams under the Clean Water Act: Reassessing Science and Redirecting Policy* by Martin W. Doyle and F. Douglas Shields in *Journal of the American Water Resources Association*, Vol. 48, No. 3, June 2012. The authors note that:

"The working assumption by regulators, practitioners, and many academics appears to be that stream restoration, as typically practiced (see Bernhardt et al., 2005), produces increased physical, chemical, and biological integrity. This assumption is necessary for the current implementation of compensatory mitigation to be an option in the CWA 404 permitting program. Our review shows that this assumption is questionable, and that many traditional stream restoration projects are largely ineffective at restoring chemical and biological functions."

In the paper's abstract note this statement: "Current stream restoration science is not adequate to assume high rates of success in recovering ecosystem functional integrity. The physical scale of most stream restoration projects is insufficient because watershed land use controls ambient water quality and hydrology, and land use surrounding many restoration projects at the time of their construction, or in the future, do not provide sufficient conditions for functional integrity recovery."

In other words, stream restoration has limited if any success in restoring ecosystem integrity as surrounding natural land uses are much more important. Such mitigation is not nearly as effective as leaving natural systems such as forest intact and should not open the door to the significant destruction of natural systems--forest and wetlands— under the plan before you that will adversely affect the hydrology of Crystal Spring and certainly add to stormwater runoff with its pollutants to Crab Creek.

To further augment the questionable benefits of stream restoration without watershed wide improvements in land use, Tim Wheeler of *The Baltimore Sun* did an investigative report on such remediation projects published on November 16, 2014. This article has experts in stream morphology and restoration projects questioning the benefits of such efforts: "...some scientists say controlling erosion is only one facet of restoring a waterway. They say its benefits don't last if nothing else is done to reduce runoff from development before it pours into the stream.

"You can't ask a stream to do everything an entire watershed should do," said Margaret A. Palmer, a University of Maryland scientist who's researched restoration ecology. She's published studies finding "no consistent evidence" that restored streams reduce nitrogen, another key pollutant fouling the bay. And while stabilizing stream channels may reduce erosion at first, she said, the benefit is likely to decrease over time.

"Show me that the water quality is better after restoration than before," agreed Doyle, who's also published research questioning the ecological benefits of restoration. "In the vast majority of cases, the data do not exist."

We would suggest that the City examine this article found at:

<http://www.baltimoresun.com/news/maryland/baltimore-county/white-marsh/bs-md-stream-restoration-20141009-story.html#page=1>

Exacerbating the problem with the clearing of 43.46 acres of contiguous forest and replacing it with 30 acres of impervious surfaces is that the developer's stormwater management plan calls for the collection and discharge of a greatly increased amount of stormwater offsite from the development including into the areas offsite set for stream restoration by the developers and their contractor, Green Vest. As noted by the scientists and stormwater experts cited above, such changes in the watershed increasing stormwater flows likely would undo water quality benefits from the stream remediation offsite and may even increase net pollutant flows.

At the northern end of the property, Developed Drainage Areas marked as Area 2 and Area 2A would substantially increase stormwater flows from the village center, retail stores, 113 town houses, and the West Marine store and area surrounding it, to one of the stream channels near Newtowne 20 planned for remediation by Green Vest.

At the southern end of the property, the development of the 33 cottages and two 20-unit apartment complexes and a recreation center with parking spaces and new roads would drain stormwater offsite. This area is delineated by the developer as Developed Drainage Area 4 and the stormwater connects to a stormwater drainage system that flows untreated directly into Crab Creek. This would increase stormwater flows substantially as this meadow and forested area now naturally captures and cleanses most of the stormwater through infiltration and natural sheet flow.

As the City has previously commented on previous PFCP's, because of the soil types there and some slopes, there are serious erosion concerns. This stormwater would negate any water quality benefits from the attempt to remediate the stream channel currently flowing from Annapolis Middle School across Spa Road and through Mas-Que Farm to Crab Creek. This situation adds to the dictates for moving all of this development at the southern end to the north.

In their Forest Clearing Justification filed with the City on December 31, 2014, the developers have a section entitled Voluntary Water Quality Improvements to Crab Creek. They note that: "As part of the development of Crystal Spring, CSD voluntarily plans to undertake restoration of watercourses flowing from offsite drainage areas using best management practices for stream and wetland / stream restoration. CSD has entered into an agreement with the South River Federation which, among other matters, calls for the restoration of a highly forceful and detrimental stormwater system. This system, which drains over 65 acres of neighboring properties, has caused and continues to contribute to significant degradation of a stream located off the Crystal Spring property. The stream flows from Board of Education property (Annapolis Middle School) through property owned by Janet Richardson-Pearson and to Crab Creek. The proposed stream restoration and nutrient removal will improve current conditions..."

In reality, the increased flow of untreated stormwater from the development site both in the south and the north will exacerbate existing stormwater and erosion problems, not improve them as suggested by the developers. Using these stream channel remediation projects as a reason to clear priority forest and trees of significance is without merit.

XVI. 100' BUFFER ALONG FOREST DRIVE IS TOO NARROW AND IS ENCROACHED UPON BY STORMWATER FACILITIES.

The minimum forested buffer along traffic-clogged Forest Drive for view scape and noise protections and for water quality should be at least 150', not the 100' buffer planned. Planning and Zoning comments on the first PFCP of June 24, 2013 noted on page 1, "A tree preservation buffer area adjacent to Forest Drive is nonexistent. The entire buffer is graded and contains stormwater infrastructure. The site plan still does not include the deceleration lane etc., widening for Forest Drive. Cannot evaluate buffer impacts until said widening is shown. A guideline for a minimum preservation buffer width is 100 feet."

The developer's filing of the second PFCP again failed to provide for such an uninterrupted buffer from Forest Drive prompting this response from Planning and Zoning submitted to the developer through DNEP on August 8, 2014: "Number 7 notes that SWM features have been incorporated to minimize impacts. These facilities shall not be located adjacent to steep slopes, within the three site drainage outfalls (intermittent stream and two southern areas vernal and open, wet area) nor within the Forest Drive forested buffer. This forested buffer shall retain a minimum 100 ft. section of trees, both east and west of the Crystal Spring Farm Drive intersection. Supplemental reforestation shall be planted in place of existing commercial adjacent to Forest Drive."

This requirement was again ignored by the developer's filing of December 31, 2014 at page 33 of the Crystal Spring—Point by Point Response. The plans submitted again show stormwater structural facilities in the forested buffer and a failure to comply with the other buffer requirements including replanting where existing buildings are located in the buffer. The buffer should be increased, kept unbroken, land reforested in it, and all stormwater and other structures in it should be eliminated.

XVII. DEVELOPERS HAVE FAILED TO ELIMINATE RETAINING WALLS.

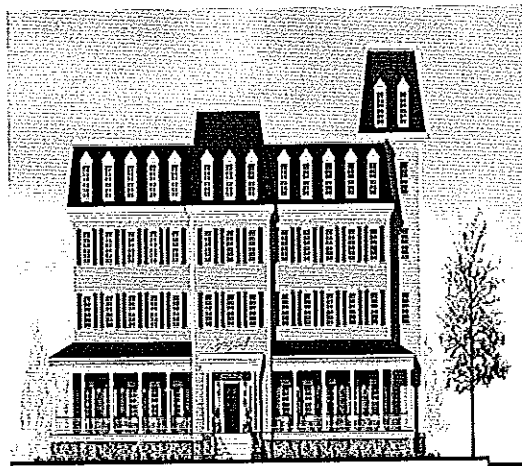
As noted above, DNEP advised the developers in their comments on the last PFCP to "Please eliminate the various retaining walls and construct at grade to reduce the impact on adjacent forest and non tidal wetland (wetland B)." P & Z made urged the same elimination of the retention walls. The developers have not eliminated all retaining walls as directed.

XVIII. DNEP SHOULD REJECT PRECONCEIVED NOTIONS THAT A FULL BUILD-OUT OF THE PROPERTY UNDER EXISTING ZONING IS A RIGHT AND MUST BE ACCOMMODATED.

Throughout this process on the Crystal Spring development we have been hearing how the City cannot dictate to the developer where they can and cannot build and how they should be allowed to build to the limits allowed by zoning, all of course with minimal compliance with environmental laws as interpreted by the City.

The assumptions above are false in that the City has full authority—and a duty—under State and City environmental laws and under its Planning and Zoning laws to require full compliance with these laws so that the density is greatly reduced. DNEP has the authority under the Forest Conservation Act and the City Code to outright reject clearing of Priority Forest and of specimen trees. DNEP under its current review of the PFCP and PSDP could reject the application outright and order the developer to comport fully with the law, still allowing the developer to build on more than 25 acres of the property, land which could easily accommodate most of the housing units for a senior living center including the CCRC building. Instead, the City appears to be compliant with the developers' desire to maximize the development, while destroying 48.64 acres of Priority Forest and the many specimen trees. This goes well beyond the 3-5 acre farmettes promoted by the owner at the time of annexation.

The City clearly could and should require the developer to protect and preserve much more than 44 or 46 acres of forest as pledged by the developer this year; even clearing 36 acres of Priority Forest is too much. The City has the duty to assure that the 82 acres of Priority Forest shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered. Of course all reasonable efforts have not been made to protect the forest and of course the plan can be reasonably altered. The real question is: does the City have the courage and will to enforce this law? Yes, enforcing the law will mean a loss of some of the development's footprint and it should result in eliminating or significantly reducing the massive non-age restricted residential, retail, and commercial development at the north end, including 113 non-age restricted town houses.



It appears that City officials labor under false assumptions about allowing the developers the right to maximize or nearly maximize the development of a property with such protected features as Priority Forests, specimen trees, and wetlands.

In their filings, the developers allege that failure of the City to approve their current plan would amount to a constitutional taking. This specious argument is without merit and any court would concur. Any notion of a takings in the current development plan process is simply desperate puffing by the applicants. Arguing that placing restrictions dictated by environmental and planning and zoning laws, even severe restrictions on the scope and footprint of the development, would somehow rise to a constitutional taking is absurd and not based in law.

In *Neifert v. Dep't. of the Environment*, 395 Md. 486, 517 (2006), the Maryland Court of Appeals most recently reiterated the test employed by both it and the Supreme Court for what constitutes a taking: "A property owner who is denied all economically beneficial or productive use of his or her land in the name of the public at large has likely suffered a taking, unless the regulation prohibits a common law nuisance. See, *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)" [Emphasis added]. Moreover, as the Supreme Court famously stated in *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104, 131 (1978):

"Taking" jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated. In deciding whether a particular governmental action has affected a taking, this Court focuses rather both on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole

In other words, any claim of a taking from full and complete application of Forest Conservation Act requirements to development of Crystal Spring property would have to be premised upon the regulation denying to Crystal Spring Development, LLC and the other ownership interests all beneficial use of the entire acreage of the site. A claim that they were denied beneficial use of the acres required to be preserved as priority forest would never rise to the level of a taking, because even if all priority forest were preserved, there would be ample acreage left over to develop for economically beneficial and productive use.

The City could reduce the footprint of the proposed development by 80 percent or more to protect the Priority Forest, specimen trees, and wetlands, while still allowing 15-20 acres to be developed without even coming close to a constitutional taking.

Certainly the building of a much smaller clustered retirement community with greater density on 15-20 acres would be a reasonable economic use and would allow the City to protect 80 percent or more of the Priority Forest, most all of the specimen trees and all of the wetlands on the site.

The developers are creating a false argument that Priority Forest designation means the site cannot be built on at all. Of course, this is not the case. Even if the entire Priority Forest is preserved, as well as the wetlands and their buffers, that still leaves at least 20 acres that could support a dense senior living center project. Instead, the developer wants the City to assume that the developer has some constitutional right to develop such a massive project as proposed and that the City should be more than willing to make findings that override the strong protections under the Forest Conservation Act and City Code for Priority Forest.

In summation, the Preliminary Forest Conservation Plan and Preliminary Site Development Plan are environmentally destructive, will adversely affect air and water quality, increase traffic in a congested corridor, do not comport with state and City environmental laws, nor do the plans meet the City's Comprehensive Plan. They should be rejected.

Respectfully Submitted,

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*The views expressed in this document represent the personal views of the signatories marked with an *
and not necessarily the views of their employers or organizations.



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Attachments Referred to in Final Comments on Forest Conservation Plan for Crystal Spring

1 message

Gerald Winegrad <gwwabc@comcast.net>

Fri, Jan 30, 2015 at 6:00 PM

To: Maria Broadbent <MBroadbent@annapolis.gov>, ForestConservationAct
<ForestConservationAct@annapolis.gov>

Cc: michael pantelides <mikepantelides@gmail.com>, mayor@annapolis.gov, mpantelides@annapolis.gov, Thomas Andrews <tcandrews@annapolis.gov>, Michael Leahy <mgleahy@annapolis.gov>, GMElson@annapolis.gov, fjb@annapolis.gov, Thomas Smith <ETS@annapolis.gov>, pgutwald@annapolis.gov

Dear Ms. Broadbent,

Here are the attachments mentioned in the comment letter are being sent separately after this comment letter to assure that your email system allows for receiving the letter and the attachments as there are photos/sketches in the comment letter. .

Thank you for your attention to this filing. Please call me if there are any questions—410-280-8956.

Respectfully Submitted by Gerald W. Winegrad on behalf of:

Governor Parris Glendening (1995-2003)

Ellen Moyer, Mayor, City of Annapolis (2001-2009)

Gerald W. Winegrad, Maryland State Senator (1983-1995)

C. Richard Damato, Former Delegate, Maryland House of Delegates, (1999-2003)

Barbara Samorajczyk, Member, Anne Arundel County Council, District 6 (1998-2006)

Chuck Ferrar, Anne Arundel County Council Member (2009-2010), Business Owner on Forest Drive

Gene M. Ransom III, Queen Annes County Commissioner (2002-2010)

David Prosten, Chair, Anne Arundel Sierra Club

Arthur Scott Mobley, President, Annapolis Neck Peninsula Federation

Anastasia Hopkinson, Vice President, Annapolis Neck Peninsula Federation

Fred Kelly, Severn River RIVERKEEPER®

Frederick Tutman, Patuxent RIVERKEEPER & CEO

Barbara K. Johnson, President, Anne Arundel Bird Club

Ray Sullivan, Save Your Annapolis Neck

William Small, Anne Arundel Green Party

Liz Vanden Heuvel, Co-Chair, Greater Annapolis Interfaith Network

Rev. Henry Green, Past Pastor, Heritage Baptist Church (1998-2014)

Marcia Verploegen Lewis, Member, Board of Directors, Maryland League of Conservation Voters

Michael Murdoch (Retired), Founding Superintendent, Quiet Waters Park (1990-2012)

J. Elizabeth (Beth) Garraway, PhD, Former Member, Board of Directors, MD League of Conservation Voters. President Emerita, MD Independent Colleges/Universities

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Dr. Marilyn Katatsky, Former Board Member, South River Federation

Colonel Fred Gregory, USAF (Ret.), Former Astronaut and NASA Deputy Administrator

Jane W. McWilliams, Historian and Author of Annapolis, City on the Severn (2011)

Jesse Iliff, Attorney, Consumer Law Center, LLC

Gwen Azama, Save Your Annapolis Neck

Michael Long, Secretary, BayWoods Cooperative Housing Corporation

Suzanne Pogell, President, Womanship, Inc & Former Chair, Annapolis Environmental Commission

James Urban, Fellow, American Society of Landscape Architects Former Member, Annapolis City Planning Commission,

Rob Schnabel, Past Chair, Annapolis Environmental Commission, Watershed Restoration

Scientist, Chesapeake Bay Foundation


Kent McNew, Former Board Member, South River Federation

Ann M. Fligsten, Coordinator, Growth Action Network Of Anne Arundel County


Russell B. Stevenson, Jr., Chairman and Founder, Chesapeake Legal Alliance

Evan K Thalenberg, President, Chesapeake BaySavers

4 attachments

 **Memo on All Development North of Stream January 28, 2015.docx**
43K

 **Eric Sprague Forest Expert Evaluation.docx**
173K

 **CAMP PAROLE 2 SUBCOMMITTEE.doc**
36K

 **Camp Parole 2 Final Report August 5, 2014.docx**
16047K

DNEP HAS THE LEGAL AUTHORITY TO REQUIRE THAT ALL BUILDING AT CRYSTAL SPRING BE MOVED NORTH OF THE INTERMITTENT STREAM

The issue has been raised of DNEP's authority to substantially reduce the footprint of the Crystal Spring development and require that all building be moved north of the intermittent stream. This is what the Mayor repeatedly has advised the developers to do. We believe that the City has both the authority and the duty to require that all development be moved north of the intermittent stream and all non-forested acreage below the stream should be reforested.

What is the legal basis for requiring this as part of the Forest Conservation Plan?

1. NATURAL RESOURCES ARTICLE, SECTION 5-1607 ADOPTED BY THE CITY REQUIRES THE PRESERVATION AND PROTECTION OF PRIORITY FOREST AND AFFORESTATION OR REFORESTATION ON SITE.

At the hub of the forest conservation issue at Crystal Spring is the fact that the developer desires to clear more than 40 acres of the 82.24 acres of priority forest at the 111-acre Crystal Spring site as well as clear trees of significance. These forests and trees are given the highest priority for retention and protection and left in an undisturbed condition under Natural Resources Article, Section 5-1607 of the Forest Conservation Act. Should the developers prove to the satisfaction of the City that these forests and trees cannot be retained and protected and that reasonable efforts have been made to protect them and the plan cannot reasonably be altered, then the City still has the a statutory duty to retain and protect as much of these forests and trees as possible.

In addition, once such forest is cleared, Section 5-1607 imposes a series of mandates upon the development process, which the City and any developer must honor, including:

(a) The preferred sequence for afforestation and reforestation shall be established by the State or local authority in accordance with the following techniques for retaining existing forest cover on-site have been exhausted:

(1) Those techniques that enhance existing forest and involve selective clearing or supplemental planting on-site;

(2) On-site afforestation or reforestation may be utilized where the retention options have been exhausted. In those cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section;

(3) (i) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan may be utilized where the applicant has demonstrated that no reasonable on-site alternative exists, or where:

1. Any on-site priority areas for afforestation or reforestation have been planted in accordance with subsection (d) of this section; and

2. The applicant has justified to the satisfaction of the State or local jurisdiction that environmental benefits associated with off-site afforestation or reforestation would exceed those derived from on-site planting;

The above referenced statutory dictates require that all retention options be exhausted first and then, afforestation or reforestation must be done on-site unless the applicant has demonstrated that no reasonable on-site alternative exists with the exceptions that do not apply at Crystal Spring. This is especially important

where the City allows Priority Forest and trees of significance allowed to be cleared. The 13-acre meadow on-site is the ideal place for the mitigation planting as there are few on-site alternatives.

(c)(1) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered . . . 2. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site."

In addition, DNEP must adhere to similar requirements under the Forest Conservation Act for trees of significance that also require the granting of a variance, Natural Resources Article, Section 5-1607:

(c)(2) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated to the City of Annapolis, Department of Neighborhood and Environmental Programs, that the applicant qualifies for a variance under MD Natural Resources Code Ann. Sec. 5-1611:...

3. Trees having a diameter measured at 4.5 feet above the ground of (1) 24 inches.

All of these provisions were adopted by the City directly from the State Forest Conservation Act requirements.

As the City has designated the 82.24 acres of forest at Crystal Spring as priority forest for retention because they are contiguous forest, as provided by state and City law, they shall be "considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City that reasonable efforts have been made to protect them and the plan cannot reasonably be altered."

All trees of more than 24", specimen trees, also are given such priority for retention and protection and are given an added measure of protection requiring the granting of a variance before they are cleared.

The developer concedes that all 82 acres of forest are priority forests and that most all of the forests are mature, older forests. The preliminary FCP states that "76 acres of the 82 acres of Priority Forest on site is a mature, mixed hardwood forest with numerous large trees estimated to be between 80 to 100 years old scattered throughout the site." Such large, contiguous, mature forests are rare in Annapolis and have extremely high ecological value for water quality, air quality, wildlife habitat, and the protection of groundwater, wetlands, steep slopes, and erodible soils.

The directive that such forests are a priority for retention and protection as are the specimen trees "and shall be left in an undisturbed condition" gives the City a substantial amount of discretion to limit the development, including strict requirements for greatly limiting clearance of such forest and for on-site reforestation and afforestation in lieu of such protections.

Such protections and reforestation and afforestation requirements apply to the far southern end of the property where the developer's latest Forest Conservation Plan filing of December 31, 2014 would develop 33 independent housing units of single family, two-car garage homes and duplexes with two housing units. In addition, the developer would develop two-20 unit apartment complexes and a health center at the southern end. The Plan filed with the City acknowledges that 2.7 acres of priority forest would be developed at the southern end in addition to the meadow, eliminating a prime afforestation/reforestation area on the site and taking down even more priority forest.

DNEP has the clear statutory authority and duty to require reforestation and afforestation on-site after all techniques for retaining existing forest cover on-site have been exhausted. Supporting this approach are the City's comments of August 8, 2014 on the PFCP. The City cites "Natural Resources Article §5-1607(d)

requiring "establishing or increasing forested corridors to connect existing forests within or adjacent to the site a priority for afforestation or reforestation. Furthermore, §5-1607(d) states that forested corridors, where practical, should be a minimum of 300 feet in width to facilitate wildlife movement."

The southern end of the property, especially the meadow and other unforested areas, as well as areas of some forest with invasive species, is a logical and reasonable area for reforestation and afforestation to accomplish the goals of the Forest Conservation Act. The necessity for this reforestation and afforestation on site at the southern end of the property is paramount to compensate for the clearance of priority contiguous forest and specimen trees. Such use of this land also would increase the important contiguity of the forest and provide a better wildlife corridor, better habitat for forest interior breeding birds, better water quality benefits as it is closest to the Critical Area, better stormwater controls, and better protection for steeper slopes and for erodible soils. Eliminating the necessity of the road running to and through the development on the southern end adds to the urgency of leaving the southern end undisturbed and to be used for afforestation or reforestation. Instead, the developers plan to clear an additional 2.7 acres of forest to develop the southern end.

Note these comments on the PFCP of August 8, 2014 from Planning and Zoning in support of moving all development north of the stream:

"Page 8 of the FCJ continues to list major plan modifications and notes that the small independent cottages, with no basements, will be developed to insure that the existing hydrology continues to sheet flow to the intermittent stream. However, approximately 2.7 acres of mass forest clearing, proposing an elevated grade change of 4 to 10 ft. with 750 linear feet of retaining wall, is sure to significantly alter the existing hydrology. In addition, this location proposes impacts within nontidal wetland buffers 'D' and 'E'. To reiterate, it is recommended that Crystal Spring Farm Road retain its existing grade and that the 9 cottage units, with a cross road from the west, be relocated from the middle section entirely." These comments support DNEP's direction to move these nine units.

P & Z further directs the developers to move all of the 24 cottages, two 20-unit apartment buildings, and health center from the far southern end. See P & Z Comments at pages 5 and 6, Item 18, 4th item:

"Number 5 states that forest clearing in the rear portion of the site is limited to immature forest with invasive species. Again, not completely accurate as priority forest is impacted and drainage outfalls are proposed on steep slopes. The entire area may be best served with an invasive removal program, reforestation and relocation of the CCRC units. While the southern portion of the site contains the largest non-forested area, it also serves as two of the three natural drainage outfalls, adjacent to Resource Conservation critical area. The southern area should be protected from development and used as justification, through reforestation, to support development in the northern site area."

The development at the southern end of the property would destroy 2.7 acres of priority forest, adversely impact drainage patterns, and adversely affect water quality and wildlife habitat.

For the City to approve the FCP and grant a variance for clearing specimen trees, it must find that reasonable efforts have been made to protect them and the plan cannot reasonably be altered. Such a finding would be ludicrous under the current proposal as there can be no question that there are more reasonable efforts that can be made to conserve this priority forest and the plan obviously can be reasonably altered. One of the ways of accomplishing both more forest conservation and reasonably altering the massive development proposed at the site is by moving all building from south of the intermittent stream to the northern end and eliminating all or most all of the non-age restricted development at the heavily wooded north end of the property.

DNEP is under no obligation to approve a development for this ecologically sensitive site that, as proposed by the developer, would include bulldozing more than 40 acres of mature priority forest and replacing it with more than 500 houses and apartments, a shopping center with another traffic-generating 54,000 sq. ft. food store, many other retail stores, restaurants, a West Marine store, and office space and more: a new 80-room hotel, a

chapel, a new cultural arts center, two health centers for residents of the complex, new roads, and 1,729 parking places to support all this development.

The City should be aware of the shifting pledges for forest conservation by the developer:

The developer's January 8, 2013 draft site plan that was posted on DNEP's web site was used to indicate that "only" 36 acres of forest would be cleared. Both Mr. Marshall Breines and Mr. James Eagan and their PR consultant Mr. Andrew Bing have indicated that forest clearing on the 111 acre site will be kept to 36 of the 82 acres of forest. They so informed Gerald Winegrad of this at a meeting in Annapolis on January 8, 2013 when they gave him a copy of the site plan that was posted on the City's web site shortly thereafter.

We also have a letter from the owner, Ms. Richardson, sent to us on March 5, 2013, in which she notes that under the January 2013 plan, more than 50 percent of the forested acres on the 111 acre property would be retained. This is cited in making her case for how environmentally responsible the development is.

David Prosten has a copy of an email from Andrew Bing to David dated January 17, 2013 in which Mr. Bing clearly states that "our goal is to retain 44 forested acres."

The developer's web site notes under "**A Commitment to Sound Environmental Practices.**" That:
The proposed development plan will retain more than 50 percent of the 80 forested acres on the site."
See <http://www.crystalspringannapolis.com/about/crystal-spring-fact-sheet> Accessed June 30, 2014.

The developer's most recent submittal would clear more than 40 acres of the 82 acres of designated priority forest and develop the only suitable area on the site for substantial afforestation and reforestation at the southern end, taking down even more forest in building in that area.

The construction of a large development of 73 housing units and a health center at the southern end would require a road running from the development north of the stream to the isolated development at the southern end along with new roadways around the complex and parking spaces. The construction of the road over the intermittent stream and through the heart of the property could be eliminated if all development was moved north of the stream, fulfilling the statutory mandate to retain and protect these priority forests and to leave them in an undisturbed condition. The road will also fragment the forest which is to be avoided under the Forest Conservation Act and the regulations and Forest Conservation Technical Manual implementing the law.

Assuming that the developer of Crystal Spring were to satisfy the strict mandates of Section 5-1607(c)(1) that some existing forested areas on the site must be disturbed (which we do not believe the developer has demonstrated in its latest plans), this in no way would relieve him of the other mandates of the section. In a site as large as Crystal Spring, there is ample opportunity to compensate for any amount of forest disturbance with on-site afforestation and reforestation, e.g. in the area south of the intermittent stream. Per Section 5-1607(a) the developer is under a mandate to "exhaust" that possibility in his planning efforts. If a balance can be struck wherein the amount of forest disturbance can be compensated wholly or mostly with on-site afforestation and reforestation, then that balance must be struck in the developer's plan.

The developer enjoys no right to any particular amount of development on this site based upon the pre-existing zoning. Moreover, as discussed below in item number 5, the City's Comprehensive Plan contemplates an amount of development for this site that would be far less than the developer has proposed. Assuming for sake of argument only that the amount of priority forest to be disturbed should accommodate anything close to the amount of development proposed by this developer, the plan and supporting materials must demonstrate the

efforts to satisfy all of the mandates of Section 5-1607, including that the 82 acres of priority forest **shall be considered priority for retention and protection and shall be left in an undisturbed condition.**

Absent this demonstration, the plan cannot be approved. And, if the developer should offer such demonstration in the future, the City is under no obligation to approve any particular amount of development as long as the City does not deny the landowner all economically beneficial or productive use of her land. The case law is clear that protecting all lands below the intermittent stream is permissible. Indeed, the City's only obligation is to assure that the mandates of Section 5-1607 and other laws and regulations have been satisfied while allowing some economically beneficial or productive use of the land. Even a substantial diminution in value of the property due to a strict application of the Forest Conservation Act is permissible in fulfilling the law. See further discussions of these points below in item number 8.

2. STATE AND CITY LAW DIRECT THE PROTECTION AND REFORESTATION AND AFFORESTATION OF AREAS SUCH AS THE SOUTHERN END OF CRYSTAL SPRING.

The State Forest Conservation Act, Natural Resources Article, Section 5-1601 et seq., and the regulations, model ordinance, and technical manual developed under it, provide clear direction and authority for the City's authority, and even duty, to keep the southern portion of the property as contiguous forest and used for reforestation and afforestation. There is a strong preference and dictate to protect existing forest, especially priority forest such as at Crystal Spring. Where it cannot be completely protected, then there is a strong preference for reforestation and afforestation on-site and for establishing and protecting contiguous forest and protecting wetlands, water quality and wildlife habitat as well as steep slopes and erodible soils. Most all of these parameters come into play in requiring the development to be moved north of the stream and the southern portion to be protected and areas used there for reforestation and afforestation. The provisions cited above and these provisions all provide the City ample authority to accomplish this:

Maryland DNR's interpretation of the dictates of the FCA state "The main purpose of the Maryland Forest Conservation Act (Natural Resources Article Section 5-1601 through 5-1613) enacted in 1991 was to minimize the loss of Maryland's forest resources during land development by making the identification and protection of forests and other sensitive areas an integral part of the site planning process. Identification of priority areas prior to development makes their retention possible. Of primary interest are areas adjacent to streams or wetlands, those on steep or erodible soils or those within or adjacent to large contiguous blocks of forest or wildlife corridors. See <http://www.dnr.state.md.us/forests/programapps/newFCA.asp>.

In addition to the statutory language cited above dictating priorities for on-site reforestation and afforestation, the State Forest Conservation Technical Manual 1997 Edition, which the City has adopted by reference, lends full support to requiring all development to be moved north of the stream. As an example, at:

P. 1-1, "the Act requires establishment of areas where new forests can be replanted."

P. 1-7. Cluster where possible.

P. 2-10 Priority retention areas include forests or other vegetation on steep slopes.

P. 3-6 et seq. Provides where and how reforestation or afforestation will occur for priority forest cleared and gives clear directions for establishing forest on-site as a priority.

In the DNR Model Forest Conservation Ordinance at Article VI, Forest Conservation Plan, 6.1 General Provisions, this language gives further direction:

A. In developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest on the site.

B. If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Department:

- (1) How techniques for forest retention have been exhausted;
- (2) Why the priority forests and priority areas specified in Natural Resources Article, §5-1604(c)(1), Annotated Code of Maryland, cannot be left in an undisturbed condition:

(a) If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland;

(b) Where on the site in priority areas afforestation or reforestation will occur in compliance with Natural Resources Article, §5-1607, Annotated Code of Maryland; and

(3) How the disturbance to the priority forests and priority areas specified in Natural Resources Article, §5-1607(c)(2), Annotated Code of Maryland, qualifies for a variance.

The 73 housing units at the southern end and the infrastructure to support them including roads, streets, parking and stormwater management facilities would remove more priority forest and much of the acreage left for reforestation and afforestation.

Again, the City has ample authority to prevent the clearing of priority forest and to require clustering of all development at the northern end of the property, and to require reforestation and afforestation of the southern end of the property.

3. DESTRUCTION OF SPECIMEN TREES PROHIBITED WITHOUT STRONG EVIDENCE OF UNWARRANTED HARDSHIP.

The developers plan to clear specimen trees and have filed a request with DNEP for a variance from the provisions of the Forest Conservation Act to do so. The comments sent back by the City in August indicate that more than 17 such trees will be affected. These specimen trees with a DBH of 30" or more are given special protection under State and City law:

Natural Resources Article. Sec. 5-1611, B. The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated to state or local authority that the applicant qualifies for a variance.

The applicant must demonstrate that they would suffer an "unwarranted hardship" and they have exhausted all alternatives to protect these specimen trees. State law requires the City to adopt a variance procedure for such cases but the City has not done so.

Further, under the State Forest Conservation Act, § 5-1611 on Variances: (b) Variance procedures adopted under this section shall:

- (1) Be designed in a manner consistent with the spirit and intent of this subtitle; and
- (2) Assure that the granting of a variance will not adversely affect water quality.

Under case law, which is quoted by then Acting City Attorney Elson an applicant has the burden of proving that without a variance the applicant would be denied reasonable and significant use of the entire parcel or lot. The applicant must also prove that the need must be substantial and urgent and not merely for the convenience of the applicant.

In allowing the developer to clear such protected trees, the City could justify such a variance on the condition that afforestation with trees of similar species and larger trees of at least 6" DBH be replanted at the far southern end in the meadow. And, the ratio could be 10 to 1. We would note that the developer's stated reasons for the City granting the variance do not come close to justifying such a variance and are completely for the convenience of the developer and to assure they can gain their maximum density and profitability.

In the Annapolis Environmental Commission comments submitted to DNEP June 17, 2013, the AEC stated: "The developer's environmental consultant provides its justification for removal of the specimen trees in a letter dated May 28, 2013 and addressed to Maria Broadbent at DNEP: "In a fashion similar to its justification for clearing priority forest, the developer appears to focus on an economic basis for its variance request. Specifically, avoidance of all 27 specimen trees would result in an unwarranted hardship "through a significant loss of units and developable area." M. Klebasko Letter to M. Broadbent at 2 (May 28, 2013). As stated above, a mere reduction in the profitability of the property does not on its own result in an unwarranted hardship."

Once again, the city could require the movement of all development to north of the stream in order to provide a variance for specimen tree clearance and their replanting at the southern end.

4. THE FCA DICTATES THAT AN ARCHEOLOGICAL/HISTORICAL ASSESSMENT MUST BE COMPLETED BEFORE A FCP CAN BE APPROVED.

A prestigious group of Annapolis historians completed a report on August 5, 2014 documenting the potential importance of Crystal Spring as the site of or being very close to the site of Camp Parole 2, an important Civil War site that housed from 3,000 to 20,000 Union soldiers from September 1862 to July 1863. They believe that Crystal Spring contains significant Civil War artifacts and is perhaps the last undisturbed ground associated with Camp Parole 2. They called for any approval of development at Crystal Spring to recognize the importance of this site and that there be an archeological investigation of Crystal Spring before any land disturbance begins to determine what physical evidence there is to help chronicle this story and to analyze this evidence for historical significance before the chance is lost.

This report of the Camp Parole 2 Subcommittee of the Annapolis History Consortium was sent to City officials on August 5 and included the City Directors of DNEP, P & Z, and Lisa Craig, the Chief of Historic Preservation. This report was filed before the City's comments on the PFCP were filed on August 8.

On August 22, Rock Toews, one of the History Consortium members met with these City officials to discuss the report and the significance of their findings. The City officials present agreed that a Phase I archaeological study would be required of the developer. This evaluation will entail research, archaeological work, digging at the site, and analyses before a site plan is approved. If the Phase I preliminary assessment warrants, there could be more detailed Phase II and III evaluations, and the site plan may have to be altered to protect the historical integrity of the site.

The problem with this is that such a Phase I study and evaluation is ordered and done under the auspices of the Planning and Zoning Department during site plan review. Such a study has not been required by DNEP for the Forest Conservation Plan.

However, under the State Forest Conservation Technical Manual 1997 Edition, which the City has adopted by reference, priority status and protection is dictated for trees associated with an historic site or structure. See page 3-5 of the Manual found at: <http://www.dnr.state.md.us/irc/docs/00010950.pdf>.

Any trees associated with an historic site or structure are to be noted in the FCP and the applicant must demonstrate that all techniques for retention have been exhausted and why these trees cannot be left undisturbed. The applicant must also demonstrate where on the site and how afforestation or reforestation for any tree removal will be accomplished in such a priority area.

While the City only received this historical report three days before the completion of its FCP review and comments, the City and DNEP must now require such a Phase I assessment to determine where on the site there may be any trees associated with an historic site or structure. DNEP cannot approve a FCP without the required information on the presence of a potentially significant historic site and perhaps the footings or foundations of historical structures from Camp Parole 2.

Given the documentation submitted by the Camp Parole 2 Subcommittee of the Annapolis History Consortium, a submittal by the developers of a FCP and any City approval would be incomplete and must contain information on any trees associated with an historic site or structure. These trees are to be noted and protected in the FCP as priority trees, the same as trees of significance with a DBH greater than 24" or 30". The thorough archaeological assessment and survey should be conducted in consort with these top local historians and their findings.

5. CITY COMPREHENSIVE PLAN LIMITS DEVELOPMENT TO 140 HOUSING UNITS AND 167,000 SQ. FT. OF COMMERCIAL SPACE.

The City's Comprehensive Plan, adopted in 2009 after two years of efforts and public input, calls for the maximum residential units to be built on the Crystal Spring property to be 140 units and for commercial space to be limited to 167,000 sq. ft. Maryland law requires that local actions be "consistent with a comprehensive plan", and the law states the intent of the General Assembly "that comprehensive plans should be followed as closely as possible while not being elevated to the status of an ordinance and that deviations from the plan should be rare." See MD Land Use Code § 1-303 et seq.

At a City Council Environmental Matters Committee meeting of June 19, 2014, the Acting City Attorney Gary Elson and Acting Planning and Zoning Director Sally Nash both concluded in testimony that City land use decisions involving planned developments and special exceptions must be consistent with the Comprehensive Plan under state law. Mr. Elson concluded in answering Alderman Littmann's inquiry of "Does the 2009 Annapolis Comprehensive Plan have the force of law?" that "So while the plan is not a law in essence, there is a force of law behind it."

City Code actually requires certain elements of development decisions to conform to the Comprehensive Plan. See Chapter 20.24 – DESIGN STANDARDS, Section 20.24.010 – Street design considerations generally.

The developers would have the City fluff-off these clear directions of the Comprehensive Plan for this site because of arguments over what a housing unit is or is not, but the direction is clear—only 140 housing units and 167,000 sq. ft. of commercial space are to be allowed at Crystal Spring. For some inexplicable reason, the City fails to count the planned 80-room hotel in the commercial space proposed for the development.

The City's Comprehensive Plan specifically identifies the top one-third of the Katherine property nearest Forest Drive for "Urban Center Low" development. At page 25 of the City's Comprehensive Plan, this language appears: "Urban Center Low areas are similar to Urban Commercial areas in terms of character and building heights, but allow for a mix of land uses that is similar to Urban Center areas. These areas consist of a mix of uses that include retail, office, restaurants, and residences. Typically these areas range from two to four stories in height and include a very balanced mix of residential and commercial land uses."

The huge and sprawling CCRC three-winged building as submitted is six stories high and the submittal calls for the CCRC building to go up eventually to seven stories and 90 feet in height. The City has advised the developers to limit the height to six stories, seemingly a big stretch from the maximum of four stories contemplated in the Comp Plan.

6. THE CITY MUST ADHERE TO SMART GROWTH PRINCIPLES IN COMPLYING WITH THE FOREST CONSERVATION ACT AND NOT ALLOW SUCH DETACHED, ISOLATED DEVELOPMENT AT THE SOUTHERN END OF THE SITE.

The August 8, 2014 submittal by the developer again goes into quite a bit of detail about how the massive, sprawling development is Smart Growth. The opposite is true.

In a letter to former Mayor Cohen previously sent to the Mayor from 27 local leaders, we advised him that the proposed project does not meet the standards or principles of Smart Growth. This is mentioned three times and here is but one quote from that letter: "As Governor Glendening advised you 'adjacency is not Smart Growth'."

Governor Glendening is a signatory to the letter and helped write and edit the letter. He is widely known as the father of Smart Growth and is identified with this concept more than any person in America. He developed and gained enactment of Maryland's Smart Growth law. He is the President and founder of Smart Growth America's Leadership Institute in Washington, DC and speaks all over the country and world advising policy makers on Smart Growth principles.

In a February 18, 2013 email to two City Aldermen concerned with the project, Governor Glendening wrote: "From my perspective of watching similar proposals advance in MD over the last 40 years and even now as I work on these issues across the Nation, I can state with confidence that as currently advanced this project should not move ahead. It certainly is not smart growth." He also wrote in an email that: "Good people working together could improve this proposal dramatically. Many of the suggestions advanced in the letter signed by 27 concerned citizens would be excellent guides to do so." Governor Glendening also noted that: "For the good of the River [South River], the City and County and the environment overall, let us hope rational minds prevail. This could be a much improved project."

He has repeatedly stated that the isolation and sprawl of the development to the southern end violates all principles of Smart Growth and has worked with us to try and have the City work the changes we advocate. In viewing the sketch plan submitted to the City in October he immediately noted how the isolated development at the southern end was definitely not Smart Growth. The two-term Governor lives in Annapolis on the Annapolis Neck Peninsula not far from Crystal Spring.

This isolation makes the project even worse from a Smart Growth perspective: it isolates at the southern end a second development separated by as far as possible from the other development on the property on Forest Drive. The road that must be built to this separate complex will cause the destruction of even more priority forest and increase stormwater runoff problems.

The 73 housing units would be isolated at the southern end and remove much of the acreage left for reforestation and afforestation. This isolation at the farthest southern portion of the site and away from the amenities to the north is the anti-theses of Smart Growth. It violates all basic principles of urban planning.

The developers' use of Smart Growth to justify the flawed PFCP as well as the variance and City exemption for clearing Priority Forest should be rejected out of hand. Instead, the City under the FCA can allude to principles of Smart Growth and require that all development be moved north of the stream and eliminate much or all of the non-age restricted development at the heavily wooded north end of the property.

As noted in Item 2 above, the State Forest Conservation Technical Manual 1997 Edition, which the City has adopted by reference, lends full support to requiring all development to be moved north of the stream. As an example, at:

- P. 1-1, "the Act requires establishment of areas where new forests can be replanted," and
- P. 1-7. "Cluster where possible."

This latter requirement does not mean cluster around the site but in one place to reduce impacts on forest, especially priority forest and to protect areas where new forests can be replanted.

7. THE COUNTY GREENWAYS PLAN (2012) INCLUDES MOST OF CRYSTAL SPRING AND THE PROTECTION OF THE PRIORITY FOREST SHOULD BE ADHERED TO.

The State Forest Conservation Technical Manual 1997 Edition, which the City has adopted by reference, provides for priority status and protection for any forests designated by a local land use plan or forest conservation plan. See page 2-18.

The County Greenways Plan (2012) developed over a long period of time with input from many officials and the public designates most all of Crystal Spring, including the entire southern portion closest to Crab Creek, in the County Greenway. The designation of the southern portion of Crystal Spring (and most of the rest of the wooded site) as a County Greenway with a priority for conservation bolsters DNEP's duty and authority under the Forest Conservation Act to prevent the development of the southern end and for decreasing the deforestation at the northern end.

This also lends more urgency and support for DNEP requiring the developers not to build anything below the intermittent stream and requiring the reforestation and afforestation in the open areas and for putting the entire southern half of the site into a permanent conservation easement.

8. ASSERTIONS THAT RESTRICTING DEVELOPMENT TO NORTH OF THE STREAM AND CUTTING BACK ON THE FOOTPRINT IS A CONSTITUTIONAL TAKINGS ARE ABSURD.

As noted in Tom Deming's takings memo, in the Forest Clearing Justification submitted with the developer's June 25, 2014 application for preliminary Forest Conservation Plan approval, at page 18, the developer asserts that preservation of all 82.24 acres of Priority Forest "would create an unwarranted hardship for CSD" and "could be construed as an illegal taking of private property rights." The City correctly pointed out in its August 8, 2014 response that the City never has indicated that all priority forest would necessarily have to be preserved, but that despite scaling back by the applicant from its initial plan, "there are further reasonable efforts that can be made to reduce disturbance of priority forest area." The City pointed out that CSD as yet has not addressed fully the application requirements for Forest Conservation Act plans. The City correctly noted in its August 8 response to CSD that "a taking determination is a matter for the courts, not the City or the Developer, and will not be considered as part of CSD's justification for developing in a priority forest area."

There is nothing in "takings" jurisprudence to suggest that the City should waiver in its insistence upon full and effective application of forest conservation requirements in CSD's plans for the Crystal Spring project. This should include moving all development north of the stream and it is our belief that all non-age restricted development should be eliminated including all the commercial and retail development planned.

The case law is clear that the City has such authority. In *Neifert v. Dep't. of the Environment*, 395 Md. 486, 517 (2006), the Maryland Court of Appeals most recently reiterated the test employed by both it and the Supreme Court for what constitutes a taking: "A property owner who is denied all economically beneficial or productive use of his or her land in the name of the public at large has likely suffered a taking, unless the regulation prohibits a common law nuisance. See, *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)" [Emphasis added]. Moreover, as the Supreme Court famously stated in *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104, 131 (1978):

"Taking" jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated. In deciding whether a particular governmental action has affected a taking, this Court focuses rather both on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole

In other words, any claim of a taking from full and complete application of Forest Conservation Act requirements to development of Crystal Spring property would have to be premised upon the regulation denying to Crystal Spring Development, LLC all beneficial use of the entire acreage of the site. A claim that they were

denied beneficial use of the acres required to be preserved as priority forest would never rise to the level of a taking, because even if all priority forest were preserved, there would be ample acreage left over to develop for economically and productive use.

In addition, any takings claim at this juncture is specious and designed to be intimidating as under the governing case of *Penn Central*, the developer simply has no grounds for raising the specter of "taking" before its application has been fully submitted and acted upon. As recently and succinctly summarized by Justice Kagan, writing in dissent in *Koontz v. St. Johns River Water Management District*, 570 U.S. ___, ___ (2013):

Claims that government regulations violate the Takings Clause by unduly restricting the use of property are generally "governed by the standards set forth in *Penn Central Transp. Co. v. New York City*, 438 U.S. 104(1978)." *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 538 (2005). Under *Penn Central*, courts examine a regulation's "character" and "economic impact," asking whether the action goes beyond "adjusting the benefits and burdens of economic life to promote the common good" and whether it "interfere[s] with distinct investment-backed expectations." *Penn Central*, 438 U.S., at 124. That multi-factor test balances the government's manifest need to pass laws and regulations "adversely affect[ing] . . . economic values," *ibid.*, with our longstanding recognition that some regulation "goes too far," *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922).

Proof of even substantial diminution in value alone does not establish a taking without the claimant also providing proof relative to the competing interests described in *Penn Central*. Moreover, before he may assert that regulation constitutes a taking, a land owner must go through the regulatory process to its conclusion: "It follows from the nature of a regulatory takings claim that an essential prerequisite to its assertion is a final and authoritative determination of the type and intensity of development legally permitted on the subject property. A court cannot determine whether a regulation has gone 'too far' unless it knows how far the regulation goes." *MacDonald, Sommer & Fraites v. Yolo County*, 477 U.S. 340, 348 (1986).

As long as the City does not deny the landowner all economically beneficial or productive use of her land and acts to protect public health, safety, and welfare, there should be no takings under the Constitution. We would assert that the City fully applying the provisions of the Forest Conservation Act to protect forest, wetlands, water quality, air quality, wildlife habitat, steep slopes, and erodible soils, while allowing some reasonable and economically beneficial and productive use of the land at Crystal Spring, will unquestionably withstand any constitutional or statutory challenge.



Natural Benefits of Tree Planting and Conservation at Crystal Spring Farm

January 27, 2014

Submitted by: Eric Sprague, Chesapeake Forests Program Director

Protecting existing trees and planting new trees are two of the best public investments society can make. For each dollar invested, residents recoup dozens of benefits. Trees cool the air during hot summers, keep drinking water safe, support green jobs, provide sustainable building materials, increase property values, scrub pollution from the air, provide places for kids to explore and parents to "get away from it all" and support some of the most unique wildlife habitats in the nation. As trees are lost to development, their many benefits are lost too.

The Alliance for the Chesapeake Bay estimated the natural benefits of the existing forested area and potential for new benefits from tree planting on the meadow at Crystal Spring Farm. The natural benefits were estimated using Forests for the Bay's (<http://forestsforthebay.org/>) suite of conservation tools. Forests for the Bay, a project of the Alliance for the Chesapeake Bay, encourages woodland owners to provide natural benefits for themselves and their neighbors through woodland management training and educational initiatives.

Air Quality

By lowering city temperatures and removing pollutants from the air, trees can reduce the risk to residents of developing a number of health problems including heart and lung disease, asthma.

If 13.3 acres of meadow at Crystal Spring Farm were planted with trees, residents would see ozone pollution reduced by 750 pounds per year and dust, smoke and other particulate matter by 400 pounds per year or the equivalent of removing 520 cars from the road each year.

If the existing 2.56 acres of trees were removed, the Farm would lose the ability to remove 144 pounds of ozone and 75 pounds of dust, smoke, ash and other particulates each year.¹

Water Quality

Nutrients and other pollutants travel to streams over land and under the ground. Natural water quality filters, like trees, trap and store this runoff providing clean water, protecting fish habitat and helping to produce high quality sources of drinking water.

Crystal Spring Farm is part of region with high value to water quality. The loss of trees at Crystal Spring will have a larger effect on water quality than other less important regions.²

3310 Market Street, Suite A
CAMP HILL, PA 17011
717-737-8622 FAX 717-737-8650

501 Sixth Street
ANNAPOLIS, MD 21403
443-949-0575 FAX 443-949-0673

612 Hull Street, Suite 101 C
RICHMOND, VA 23224
804-775-0951 FAX 804-775-0954

www.allianceforthebay.org

If 13.3 acres of meadow at Crystal Spring Farm planted with trees, Annapolis would reduce nitrogen loads to the Chesapeake Bay by nearly 100 pounds per year. Phosphorus loads would be reduced by 5 pounds and sediment loads by 1,584 pounds per year.

If the existing 2.56-forested acres were lost, Annapolis would need to find other ways to reduce 18 pounds of nitrogen, one pound of phosphorus, and 305 pounds of sediment every year to maintain existing water quality at the site.

If the meadow was developed instead of forested, the site would see an increase of 148 pounds of nitrogen, 14 pounds of phosphorus, and 7,196 pounds of sediment pollution each year.³

Carbon Sequestration

Trees sequester greenhouse gases emitted from cars, power plants and other sources as they grow and so help to offset emissions from Annapolis residents and businesses. If protected in perpetuity, 13.3 acres of tree plantings on the meadow at Crystal Spring farm would sequester 632 metric tons of carbon over 100 years. This is the equivalent to the annual carbon emissions of 133 cars. Losing the existing 2.56 acres of existing trees would effectively remove 123 metric tons of carbon from the City's long-term "carbon bank."⁴

Soil Resilience

Soil types vary in their resilience or ability to bounce back from disturbances. Sites with high resilience are more forgiving to a range of disturbances like development than those with low resilience. Nearly 80% of the meadow soils at the Farm are classified as "Annapolis" soil (AoB) and have low resilience to disturbance.⁵

Forest Productivity

While all woodlands have value to wildlife, water quality and clean air, some woodlands are more fertile and better able to support plant and tree growth than other sites. The sandy loam soils on the Crystal Spring Farm meadow are highly productive. Therefore, planting trees on this site has potential to create healthy woodlands and their associated natural benefits.⁶

Critical Area

While the meadow is just outside of the critical area, new tree plantings will only enhance the water quality and wildlife habitat services provided by the buffer. New trees will also increase the resilience of the Critical Area to flooding, forest pests and other disturbances.

¹ Estimated using USDA Forest Service's iTree program and based on 2007 hourly weather conditions, hourly air pollutant concentrations and forest types.

² Chesapeake Bay Program. Resource Lands Assessment.

³ Woodland Crediting Platform, <http://woodland.ecosystemcredits.org/>. Chesapeake Bay Program Community Watershed Model, Phase 5.3.2

⁴ USDA Forest Service. Carbon Online Estimator, <http://www.ncasi2.org/COLE/>. Accessed 1/14/15.

⁵ LandServer, <http://forestsforthebay.landserver.org/>. Model developed using methodology developed by Pinchot Institute for Conservation and Maryland Forest Service. 2010. "A Guide to Forest Biomass Harvesting and Retention in Maryland."

⁶ Pinchot Institute for Conservation and Maryland Forest Service. 2010. "A Guide to Forest Biomass Harvesting and Retention in Maryland."

⁶ LandServer, <http://forestsforthebay.landserver.org/>. Productivity level based on a site index between 81 and 100 for loblolly pine. USDA SSURGO soil survey.

CAMP PAROLE 2 SUBCOMMITTEE

George Allen Hughes

Education: AB, Georgetown University.

Fifty year business career in publishing, advertising, and public relations.

Avid Civil War historian.

Forty-nine year resident of Annapolis, MD.

Great-grandnephew of Joseph W. Allen, first bugler, Co I, First Vermont Cavalry, and former resident of Camp Harris, Annapolis, Maryland.

Great-grandfather George R. Allen also joined the First Vermont Cavalry later in the war.

Jane Wilson McWilliams

Jane McWilliams is a native of Annapolis and a graduate of Washington College in Chestertown with a BA degree in English. Following several years teaching high school English, Ms.

McWilliams worked for Historic Annapolis on the index to Annapolis items in the *Maryland Gazette* and on research for National Endowment for the Humanities, Grant H 69-0-178, "Southern Urban Society After the Revolution: Annapolis, Maryland 1782-1784." The latter produced Appendix F: "Lot Histories and Maps," which she co-authored with Edward C. Papenfuse.

Ms. McWilliams was a member of the research staff of the Maryland State Archives for seventeen years, working primarily on the two volumes of *A Biographical Dictionary of the Maryland Legislature, 1635-1789* (1979, 1984), and the *Archives of Maryland*, new series, volume 1 (1990). As director of research for the Maryland Office for the Bicentennial of the U.S. Constitution, she spent two years as operations manager and director of education for the replica ship *Maryland Federalist*.

Editor of a number of books on historical topics, including Mame Warren's *Then Again . . . Annapolis 1900-1956* (1990) and *Lincoln in Annapolis*, by Rockford E. Toews (2009), as well as the five-part STUDIES IN LOCAL HISTORY (co-edited with Ann Jensen), Ms. McWilliams is herself author of a several works on Annapolis history. Among her publications are *The First 90 Years*, *A History of the Anne Arundel Medical Center* (1992; reprinted in *A Century of Caring*, 2002) and *Bay Ridge on the Chesapeake*, co-authored with Carol Patterson (1986). Her comprehensive history of the city titled *Annapolis, City on the Severn: A History*, was published by The Johns Hopkins University Press and the Maryland Historical Trust Press in May 2011.

Willard R. Mumford

Will Mumford served as Chairman of the Engineering and Technologies Division at Anne Arundel Community College from 1981 to 1992 and is a retired Lt. Colonel from the United States Air Force. He has served as President of the Anne Arundel County Historical Society, the Maryland State Numismatic Society, and the Maryland Association for Higher Education. For 14 years, Will served as the Chairman of the Anne Arundel County Trust for Preservation.

Will has authored two books on local history: *Strawberries, Peas and Beans: Truck Farming in Anne Arundel County* and *Barter, Bits, Bills and Tobacco: the Story of Money in Early Maryland*. He is currently involved in an extensive research project on the Civil War in Anne Arundel County and has completed a comprehensive history on the Civil War in Annapolis, which will soon be published.

For 12 years, Will taught a course on Anne Arundel County history for Anne Arundel Community College and has given over 400 lectures to various groups throughout the county. Will also coordinates the St. John's College lecture series on Maryland history.

Will has degrees from the University of Maryland, Southern Methodist University and Texas A & M University.

Jean B. Russo

Jean Russo received her Ph.D. from The Johns Hopkins University in 1983, with a specialization in American Colonial History. She was director of research for Historic Annapolis Foundation from 1982 to 2001 and returned in January 2003 as Historian. She has been associate general editor of the *Archives of Maryland Online*, a publication of the Maryland State Archives, since 1999.

Her published work includes *Free Workers in a Plantation Economy*, a study of artisans in colonial Talbot County, and co-editorship of *Colonial Chesapeake Society*, a collection of essays. In 2003, the Maryland Historical Society published *The Diary of William Faris: the Daily Life of an Annapolis Silversmith*, which she co-edited with Mark B. Letzer. She is most recently the co-author of *Planting an Empire: The Colonial Chesapeake in British North America*, published by The Johns Hopkins University Press in 2012.

Her professional work has also included research and writing for many of the area's historic sites, the Four Rivers Heritage Area, and the City of Annapolis.

Rockford E. Toews

- California native, moved to Annapolis in 1990.
- Bachelor of Business degree in accounting.
- Small business owner: Back Creek Books, dealer in used and rare books, now located on Main Street.
- Avid interest in local and Civil War history.
- Author of *Lincoln in Annapolis: February 1865*, published 2009 by Maryland State Archives.
- Conducted extensive research at National Archives, Maryland State Archives, Maryland Historical Society, B&O Railroad Museum Archives in connection with the above Lincoln booklet.
- Located Civil War era claims by Annapolis residents against the government in connection with the military railroad extension of the Annapolis & Elk Ridge Railroad. This information definitively settled the question of the original A&ERRR depot location and made possible the plotting of the route of the military railroad extension by reference to contemporary property owners' claims for damages from same.
- With fellow Annapolis History Consortium member David Haight, located the lease for Camp Parole 3 in the records of the Quartermaster Department at the National Archives.
- Member, Annapolis History Consortium.
- Member, Annapolis Lincoln Bicentennial Commission.
- Member, Historic Preservation Commission, City of Annapolis.
- Former member, Heritage Commission, City of Annapolis.
- Former board member, Charles Carroll House of Annapolis.

FROM: Camp Parole 2 Subcommittee of the Annapolis History Consortium:
George Allen Hughes, Jane W. McWilliams, Willard Mumford, Jean
B. Russo, and Rock Toews
TO: Lisa M. Craig, City of Annapolis Department of Planning and Zoning,
Historic Preservation Division
SUBJECT: Report on the Location of Camp Harris and Camp Parole 2 and the
Need for 1) Historical Site Review and 2) Inventory and
Archaeological Investigation at Crystal Spring
DATE: August 4, 2014

Dear Ms. Craig:

During the last decade, members of the Annapolis History Consortium have discussed and researched the location and operations of what is known as Camp Parole 2. The Annapolis History Consortium is a local group of about 100 professional and amateur historians and its members were interested in establishing the location of this important Civil War site in or near Annapolis.

A Subcommittee of the Consortium has probed this question and reached a conclusion as to the location of this important Union Camp that housed from 3,000 to 20,000 Union soldiers from September 1862 to July 1863 when it was moved to the area now known as Parole.

Camp Parole 2 was one of three parole camps established by the Union to provide living quarters for paroled Union soldiers who had been captured and initially sent to prison camps in the South and who could not rejoin their units to fight until they could be formally exchanged. There were three such camps established by the Union, the other two being at Camp Chase near Columbus, Ohio and at Jefferson Barracks in St. Louis, Missouri. The men stayed at the camps until exchanges were arranged or until they were sent home. Men who did not report to the parole camps as ordered were listed as deserters (McWilliams, pp. 176-77).

Initially, the Annapolis parole camp was located on the back campus of St. John's College, but it quickly became evident that more land was necessary to house the increasing numbers of paroled soldiers being sent to the city. Three thousand men were sent to the second parole camp in September 1862.

Because the population of Annapolis from the June 1860 federal census was 4,529 and that of Anne Arundel County was 23,900, Camp Parole 2 with as many as 20,000 men would have had a significant impact on the City of Annapolis and the

surrounding County and its people and farms, especially at the site of the encampment (McWilliams, pp. 162 et. seq., and p. 382).

So significant were the impacts of housing so many men at Camp Parole 2 that military authorities, investigating months of complaints concerning this camp from soldiers and civilians alike, concluded that the poor conditions, including poor sanitation and provisioning, required that the Camp be moved. Expansion was not an option because, as one military officer wrote, "the ground immediately outside the present camp is . . . covered with accumulations of rubbish and filth and the sites of old tents and huts." Military authorities eventually moved Camp Parole 2 to a new site where it could be served by a railroad (McWilliams, p. 184).

Our research revealed that a camp and training ground for the Fifth New York Cavalry and First Vermont Cavalry were located on a farm near Annapolis in November 1861 and occupied by those troops until late March/early April 1862. This camp was called Camp Harris. There is strong evidence that this Camp Harris was later the site of Camp Parole 2, and some evidence that this site was on or near the current Crystal Spring Farm and Mas-Que Farm sites.

Building on years of efforts, a Subcommittee of the Consortium recently has probed this question, and while the exact location of Camp Parole 2 remains elusive, we have better information on contemporary owners of property adjacent to present day Crystal Spring Farm and Mas-Que Farm, and we have found claims from several of them against the government for damages arising from their proximity to Camp Parole 2. This is an avenue that warrants a more thorough search of the Quartermaster General's records at the National Archives for additional Camp Parole 2 claims to try to establish the exact location.

Our research shows that if Camp Parole 2 was not located directly on Crystal Spring Farm or Mas-Que Farm, it was undoubtedly very close to these properties. It is our hope that the Civil War Subcommittee of the Annapolis History Consortium will convene soon to examine all of the maps, metes and bounds, plats, contemporary accounts, compensation claims, and other resources either to resolve this question or to concede that the missing link does not exist.

However, while this research is being completed, we note that it is clear from the letters written by Duvall and Welch, the claims made by Legg, Ridout, and Duvall, and the recommendation against trying to build a new camp in the same location because of the extensive area covered by debris, that the presence of the camp had

a significant impact on a much wider area than just the land on which housing, barns, and other facilities were erected.

Thus, we conclude that a persuasive case can be made from the historical research that there is sufficient reason to believe that the Crystal Spring Farm property contains significant Civil War artifacts and is perhaps the last undisturbed ground associated with Camp Parole 2, Camp Harris, or any of the other parole and training camps established in Annapolis during the Civil War. Any approval of development at Crystal Spring must recognize the importance of this site as further research may reveal that Camp Parole 2 occupied at least part of the site.

The fact is that Annapolis played a crucial role in the Civil War and whether because there were no battles fought here or because of the town's desire to put a very divisive period behind it, this part of our history has been sorely neglected. Nor is this just about Annapolis. Any Union soldier recruited from any eastern state, if he were captured in battle and then paroled, would have spent his parole at one of the parole camp locations here in Annapolis.

We have a chance to recover some of that important story, not just for Annapolis but for the countless people who had an ancestor paroled here.

We therefore recommend that there be an archeological investigation of Crystal Spring before any land disturbance begins to determine what physical evidence there is to help chronicle this story, before the chance is forever lost. Any disturbance of the ground in the area should be monitored for artifacts related to Camp Harris and Camp Parole 2 and these artifacts should be preserved. See the City Code, 21.62.060 Scenic, Historic, Archaeological and, Landmark Sites and Views, wherein historical and archaeological sites and features that are located on or adjacent to a proposed development shall be preserved and protected to the maximum extent as practicable through site design, building location, and parking layout.

Our Report substantiating these conclusions and recommendations follows.

**REPORT ON THE LOCATION OF AND NEED FOR HISTORICAL SITE
REVIEW AND INVENTORY AND HISTORICAL DESIGNATION OF
CAMP HARRIS AND CAMP PAROLE 2**

Preface

The present Mas-Que Farm in 1861 was part of a 227 ½ acre property located near the intersection of today's Spa Road and Forest Drive. The property was owned by the trust of William Murdock and occupied by his niece and her husband, William Williams. (Giffen, pp.26, 28). Mas-Que Farm contained part of the property now known as the proposed Crystal Spring development. The remainder of the Crystal Spring Farm had been the property of Hester Chase in the 1860s. (See Chains of Title included below).

Camp Harris, located on a farm near Annapolis in November of 1861, was used as a camp and training ground for the Fifth New York Cavalry and First Vermont Cavalry until late March/early April of 1862.

Camp Parole 2, the successor location to Camp Parole 1 in Annapolis, was first used in early September 1862. The population of Camp Parole 2 varied from about 3,000 to 20,000 until it was relocated to the site of Camp Parole 3 in July of 1863 (Morris, p.25).

History of Camp Harris and Camp Parole 2

On November 28, 1861, the Fifth New York Cavalry commanded by Colonel O. De Forrest moved from St. Mary's College (*sic*; incorrect identification of St. John's College (personal communication, Robert Worden, 7/28/14)) in downtown Annapolis "and pitched their tents about three miles from the city and named the place Camp Harris" (Boudry, p. 21). This measurement is the distance from St. John's College to Camp Harris.

On December 26, 1861, The First Vermont Cavalry regiment commanded by Colonel Lemuel B Platt arrived and went into winter quarters on Camp Harris's "large tobacco field about two miles southwest of the city" (Benedict, p. 541). From information contained in the regimental histories, both regiments must have occupied an area of at least 80+ acres to accommodate 2000 men, 2000 horses, quarters, equipment, and drill grounds (Hoffman, p. 20). The First Vermont regimental histories also note that 11,000 Union infantrymen camped nearby in preparation for the Burnside Expedition (Benedict, p. 541).

Camp Harris was located on tidal water and the men ate oysters taken there (Collea, p. 21). Most of the cooking water for the regiment's men came from the well belonging to the property owner (Hoffman, p. 20).

In March of 1862 the First Vermont left Annapolis for campaigning in the Shenandoah Valley. On July 6, Corporal Ide of the First Vermont was captured and sent to Libby Prison (Hoffman, p. 51). On September 11 Ide was paroled, sent to Fortress Monroe, and on September 14 arrived in Annapolis by steamer and was sent to Camp Parole 2. He stated in his diary: "We landed in the Navy Yard and marched up to the old camp ground where we were turned loose like so many cattle. There had been about three thousand paroled prisoners here before and five thousand of us arriving from Richmond made the demand for tents and rations greater than there were any means of supplying them. To add to the difficulty of the case in a few days the eleven thousand who had been surrendered at Harper's Ferry arrived and camped in the woods nearby. The first two nights I slept in the old 5th New York horse sheds" (Hoffman, pp. 85-86). The references to the "old camp ground" and the "5th New York horse sheds" tie Camp Harris to the new Camp Parole 2.

National Archives records include U.S. Army Quartermaster claims from adjacent property owners for damages and/or past rents due them from the federal government.

1. Samuel E. Duvall claimed and received compensation for "property destroyed during the war near Camp Parole, Annapolis, Md." (NARA RG 92 Duvall)
2. James Legg, whose property lay northwest of both the Murdock & Chase farms, claimed compensation "for settlement of rent" and damages to fences. (NARA RG92 D280).
3. Hester Chase claimed damages to "100 acres of timber" in 1861 and 1862 to the close of the war" and named Cols. Platt and De Forrest of the Vermont and New York cavalry regiments as witnesses to her claims. (NARA RG92 R245). This claim documents the existence of both Camp Harris and Camp Parole 2 very close, if not actually on, Chase's land, the site of present day Crystal Spring.

The various primary sources noted above identify features of the camp location that apply generally to land along the north shore of the South River: approximate distance from Annapolis, use of tobacco fields as the site for the camp, and proximity to creeks and the river itself that supplied fish and other seafood. The

claims by Duvall, Chase, and Legg, however, establish the presence of the camp near or on the properties bordering Church and Crab Creek [known as Crabb Creek in the 1860s] and near the Lower Ferry on the South River, an area that includes the current Crystal Spring property. The account of a journey to Annapolis by Anna Steele and her father [see below] confirms the widespread area affected by the concentration of paroled prisoners in the area, as they passed *between* “lines of tents and soldiers” when driving along the road to the Lower Ferry, which bordered the Murdock property on the east.

References:

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- Ide, Horace K. Hoffman, Elliott W., ed. *History of the First Vermont Cavalry Volunteers in the War of the Great Rebellion*. Baltimore, MD: Butternut & Blue, 2000.
- McWilliams, Jane Wilson. *Annapolis: City on the Severn, A History*. (Baltimore, MD: Johns Hopkins University Press, 2011.
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History of Mas-Que and Crystal Spring Farm Properties

Title History

There are two pieces of property located on Crystal Spring Farm Road: Parcel A consists of 9.51 acres, located at 851 Crystal Spring Farm Road, and an adjoining 5.0 acres acquired by Katherine Properties LLC on 15 October 2004. Both were originally part of the farm that Gilbert Murdock began assembling in 1797, and that continued in the ownership of members of his family until 1888. Parcel A runs along the southeast side of Crystal Spring Farm Road, but is bounded on the southwest by several tracts that lie between it and the creek; and

Parcel B consists of 66.76 acres, located on Crystal Spring Farm Road, acquired by Katherine Properties, Inc. on 10 December 1996. Parcel B runs from Forest Drive along the northwest side of the road to a line that roughly parallels Crab Creek between 600 and 1,000 feet from the shoreline [see plat filed with deed 3897/557, dissolution of March Want, Inc.]. This parcel belonged to members of the Chase family for a period of seventy-five years that spanned most of the 19th century.

MAS-QUE FARM: PARCEL A

Gilbert Murdock purchased 44 acres of Proctor's Forest in 1797 and continued to acquire contiguous land, eventually owning 227 ½ acres in all. After Murdock's death in 1845, a deposition recorded for a suit over the disposition of his estate noted that in addition to his residence on West Street, Murdock had a "farm located about 2 miles from Annapolis and through which the County Road to the South River Ferry passed." Murdock, who had lost his wife and only child, left his estate to his brother William in trust for William's living heirs. When William Murdock wrote his will in 1850, he named his son George as trustee, under the terms of Gilbert Murdock's will. William Murdock died in 1854, leaving a widow and ten children. When his widow, Juliet died in 1886, five of the Murdock children sued in Equity Court to have the property sold and the proceeds divided among the surviving heirs. A plat by John Duvall of the division of the property into four lots is included in the records of the Equity Court case (SH 18/9) (see below). William Murdock's daughter Martha and her husband, William Williams, moved to the farm when they married in 1856 and lived there during the years of the Civil War.

Frank Stockett and John Ireland, as court appointed trustees in the Murdoch equity case, sold the farm in 1889 to James Vansant for \$2,550. The Vansants lived along Forest Drive and Spa Road for just over twenty years. When James Vansant died, he left the property to his widow Mary and then to her children. The latter heirs sold the farm to Frederick Stehle for \$6,000 in 1910. Stehle and his wife Viola mortgaged the land to the Annapolis Savings Institution, but when they defaulted on the mortgage in 1913, the Equity Court appointed attorney James Monroe as trustee to sell the land once again, this time to James and Alice Stehle for \$9,100. James and Alice Stehle sold the farm back to Fred and Viola Stehle in 1922, who again mortgaged the property only to default on the debt yet again during the Depression. In August 1935, James Munroe serving as the court-appointed attorney charged with selling the property at public auction, found a buyer in the company that held the Stehle mortgage. Annapolis Mortgage Company acquired

152 acres of the property for \$11,500 and held it for two years before selling the farm to Robert & Elsie Giffen.

Between 1957 and 1963, Robert and Elsie Giffen together and then Elsie Giffen, after her husband's death, transferred a portion of the property to their daughter Mary and her husband, Shirley Miller: 8 acres in 1957, 5 acres in 1959, and 9.51 acres in 1963. Mary Miller in turn executed several deeds that transferred ownership of the latter two tracts to her children, culminating in a 1993 deed that vested her rights to both properties in a trust that designated herself, her daughter, and her three sons as trustees. The four children, as surviving trustees, dissolved the trust in 1995 and sold the land to Katherine Properties in 1996 as tenants in common. All deeds also conveyed the use of a 40' right of way as described in GTC 1170/9.

CRYSTAL SPRING FARM: PARCEL B

"The Plains," or portions of it, belonged to members of the Chase family for a period of at least three-quarters of a century. Jeremiah Townley Chase bought 542 acres sometime before 1815, acquiring part from William T. and Ann Mason and the balance from Caleb Sears. In 1815, Chase transferred ownership as a gift to his daughter Catherine and her husband, Richard Crabb [hence the name contemporary name Crabb's Creek for the adjoining body of water; the previous name had been Cherrystone Creek]. Chase reserved only the right to cut wood on the twelve acres nearest to Annapolis. In 1824, Catherine and Richard Crabb sold 235 acres of this land back to Catherine's father for \$2,350.00. The value placed on the land at this time suggests that the Crabbs may have improved the property during the time of their ownership, but the deed does not provide any evidence of what those improvements might have been.

Jeremiah Townley Chase died in May 1825. His will devised the 235 acres of The Plains to his daughter Hester Ann and after her death jointly to the children of his daughter Matilda and her husband Thomas Chase (son of Samuel Chase): Hester Ann, Matilda, and Frances Chase. When she died in 1888, Hester Ann Chase Ridout (widow of Samuel Ridout), the last surviving heir of Jeremiah Townley Chase, left this property to Dr. Thomas B. Chase, who sold it three years later in January 1891 to Agnes Lindenborn.

Lindenborn sold 105 acres in 1894 to two bachelors from Prince George's County, Edward and Henry Westbrook, for \$175.00 cash and a mortgage in the amount of

\$1,950.00. When the Westbrooks defaulted on the mortgage, the property became Lindenborn's once more and she held it until 1898, when she and her husband sold the parcel to Antone Steiner.

Antone Steiner purchased the 106-acre portion of The Plains from Agnes and Charles Lindenborn in May 1898. Eight years later, in March, Antone and Ann Steiner sold 100 acres to Jefferson D. Costen, a "single man" living in Baltimore, who (now identified as a widower) in turn sold the land in January 1913 to Irene Wolf, of Wayburn, Canada. [In the same year that they sold Costen his 100 acres, the Steiners also sold the remaining 5½ acres to Frederick Liebau, at which time those five acres become irrelevant to the history of Crystal Spring Farm.] Three years later, Wolfe and her husband Caleb, now living in Hennepin County, Minnesota, sold the land to Fred St. John, also of Hennepin County. In December of the following year, 1917, St. John sold the tract to Willis and Lottie Norton, who also resided in Hennepin County; they then sold the 100 acres back to Jefferson D. Costen in August 1918. [Lottie Steiner was the eldest child of Antone and Annie Steiner, the couple from whom Costen first bought the land in 1906; Lottie may have married Willis Norton.]

Anthony and Irene Muto purchased the Costen property in three separate transactions. They acquired the 66.76 acre tract in 1947 from the heirs of Jefferson D. Costen. They bought lot 3 in 1940 from Charles and Eleanora Cadle, to whom it had been sold by Costens' three children in 1940 to complete an agreement made between their father and the Cadles. Costen's children also sold lots 1 and 2 to the Mutos in 1953. At the time of their purchases, the Mutos lived in Anne Arundel County. In 1960, now residents of Pacific Palisades, California, the Mutos sold the 66.76 acres comprising Parcel B to March Want, Inc. March Want also acquired four waterfront lots on Crabb Creek. In June 1985, March Want filed articles of dissolution and executed a deed two days later transferring ownership of the property to the stockholders proportional to their share in the corporation. Katherine Properties bought Crystal Spring Farm in December 1996 from members of the Iliff family, former stockholders in the corporation March Want, Inc., for \$2,700,000. [The four waterfront lots were not included in the sale to Katherine Properties. See 776/196 for a plat of the division of the Costen lots, which border Crab Creek.]

CRYSTAL SPRING

The earliest names for tracts that became part of Crystal Spring Farm were "The Plains" and "Woodlands." There were seven tracts patented with the name "The Plains;" none with the name "Woodlands." Determining which of these is the land on Crab Creek could likely be accomplished by a title search continued back to the original patent.

The name "The Plains" is used in deeds from 1815 to 1918. Between 1940 and 1985, the property is only described by its metes and bounds and not by a tract name. The name "Crystal Spring Farm Road" appears on a 1957 USGS map.

CAMP PAROLE 2

Phebe Jacobsen, Research Archivist at the Maryland State Archives, writing in "Center of the Storm: St. John's and Annapolis, 1860-1865," included a few references to events involving parole camps 2 and 3. Jacobsen speculates that the first camp outside Annapolis (Camp Parole 2) was located south of Forest Drive between Spa Road and Fairfax Road and was in use from August 1862 to May 1863. "Contemporary accounts," perhaps letters, contained reports of "mules bogged down by mud up to their bellies trying desperately to pull wagon loads of supplies to the men," perhaps along Spa Road. By May of 1863, according to Jacobsen, the camp moved to a site along West Street, known as Camp Parole 3.

Columns on the Civil War written by Jack Mellin for *The Capital* on 22 and 29 March 1990, were based on a diary kept by Capt. H. K. Ide of the First Vermont Cavalry, who arrived in Annapolis in December 1861. According to the diary, the camp (Camp Parole 2) was about two miles southwest of the city, and eventually had a stockade, tents with floors, and a well dug by the soldiers. [The diary's date of November 1861 predates the August 1862 date given by Jacobsen for the establishment of the camp.] Mellin's column reported that both he and Jack Kelbaugh, a local authority on the Civil War in Anne Arundel County, believed that Camp Parole 2 was near Forest Drive and Spa Road.

The Baltimore *Sun*, 10 September 1862, reported that "The camp of the paroled soldiers has been removed to a point west of this city, about two miles and a half. All the paroled soldiers were required to leave the city; a number of them not complying were arrested, and sent with a guard to their camp. There are 3,000 here now." On 11 October 1862, the paper reported that "Camp Parole is laid off into streets and avenues. The principal street is Broadway, on which there are a

number of stores kept by the most enterprising of the paroles. It is supposed that the camp will remain here all the remaining winter....”

Two letters, written to Alexander Randall by farmers living in the neighborhood of Camp Parole in the winter of 1862/1863 (see below), while providing no evidence about the location of the camp, do offer evidence as to its effect on adjacent properties.

Andrew Roy, whose account of his service during the Civil War is published in William J. Miller, ed., *Fallen Soldier: Memoir of a Civil War Casualty* (Montgomery, AL: Elliott & Clark Publishing, 1996), pp. 73-77, was sent to Annapolis in August 1862 but spent his time there at the hospital on the grounds of the Naval Academy. He mentions two visits to Camp Parole: (76-77) “although Camp Parole was a mile or more from the hospital, I was able, by walking slowly and taking several rests on the way, to visit the camp, and to pass a few hours with the comrades of my company” and (77) “Before the transfer reached me the paroled prisoners were exchanged, and early in December all able for duty were notified to report to their respective regiments. I made a trip out to Camp Parole to pass a day with them before they left.” Neither statement provides any information useful in determining the precise or even general location of the camp.

“The Civil War in Annapolis: Part VII: Union Soldiers at Camp Parole,” by Michael R. Robyler (published in the quarterly newsletter of the Ann Arrundell County Historical Society in April 2006), includes an 1863 sketch of the camp’s location drawn by a Union Soldier in a letter to his parents dated May 4, 1863. The soldier identified the site of Camp Parole 2 as being two miles from downtown Annapolis and his hand-drawn map of its location included tents and wooden barracks erected at the Camp. The attached copy of the letter and map has the conjectural location of Forest Drive with the intersection with Spa Road with the tents and barracks of Camp Parole 2 where Crystal Spring and Mas-Que Farm are located today. The map clearly shows the camp at a distance from West Street and very close to Spa Road – but it also incorrectly shows Spa Road as leading directly out of State House Circle. The map is perhaps the main piece of evidence to convince contemporary scholars that the camp was at the Forest Drive/Spa Road intersection, but this conclusion has to be taken as conditional.

We have concluded that there is a probability that at least a portion of Camp Parole 2 was located on or very near Crystal Spring Farm and/or Mas-Que Farm. A persuasive case can be made from the historical research that there is sufficient reason to believe that the Crystal Spring Farm and Mas-Que Farm properties

contain significant Civil War artifacts associated with Camp Parole 2. We therefore recommend that there be an archeological investigation of Crystal Spring – before any land disturbance begins – to determine what physical evidence survives to help chronicle this story. Any disturbance of the ground in the area should be monitored for artifacts related to Camp Harris and Camp Parole 2 and these artifacts should be preserved.

Documentation

SH35/222

The 1889 deed selling the Murdock property provides the most complete description of its metes and bounds and of neighborhood landmarks during the Civil War years:

Frank H. Stockett & John Ireland to James Vansant, 7/12/1889 \$2,550.00
as per Circuit Court decree 9/3/1888, Charles H. Dexter et al. v. George M. Murdock, et al.

beginning for the same at a post now set on the edge or margin of a creek originally called Cherry Stone Creek but now called Crabbs Creek said post being set in the place of the second original boundary of the tract of land called "Bushy Neck" being also a boundary of that part of "Proctors Forest" as conveyed by *Benjamin Lusby to Gilbert Murdock* by deed bearing date *15 October 1794* and running from thence and bounding on the second line of the aforementioned land called Bushy Neck as follows, north 43'40" east 183.5 perches to a post set in the said second line on the south west edge of the public road leading from the Annapolis and Tolleys Point road toward Camp Parole thence with and bounding on said road south 45'45" east 6.5 perches south 75'30" east 5.5 perches — aforesaid road leading from Annapolis to Tolley Point thence running down and bounding with the said road by the following courses and distances namely — to a post on the south edge of said road being a boundary of the School House Lot thence leaving said road and running south — to a bounded stone heretofore set at the end of the 8th line of the land heretofore conveyed by *Anne E. Lusby to Gilbert Murdock* by deed bearing date *14 October 1829* thence reversing and bounding on the lines of said conveyance as follows — to a bounded stone on the east side of the old ferry road leading from the aforesaid Tolley's Point Road to the old South River ferry known as Shipmakers ferry, thence to the center of said road and running with road — to bounded stone of land heretofore conveyed by *Gilbert Murdock to Henry Scible* by deed dated *1 June 1828?* — thence leaving road and running — to a chestnut stump on the south side of the meadow or low ground of Cherry Stone branch thence running down the said meadow or low ground as follows — to a post set in the marsh at the head of a creek originally called Cherry Stone now called Crabbs Creek thence — to the head of said creek thence down and bounding on the tide water or margin of said creek and on its north side by the following courses — to the beginning post as surveyed by *John Duvall*, 4/4/1889.
[See below for Duvall plat]

LETTERS TO ALEXANDER RANDALL, JANUARY 1863

Beirne-Slack-Randall Collection, MSA SC 1931, M4809, items 99 and 100

#99

Mr Randall

Dear Sir. Being so often disturbed by the Parole Prisoners causes me to write you this letter. I can truly say they have robbed me of at least \$300. sheep, Hogs Tobacco Turkeys corn Applies Peaches Potatoes & Potatoes & Turnips and more than all they go at the houses on my place & attempt to break in and ravish the wimmen. they have treid all of four of the coulered servants & offered them money & when they are refused they then attempt to break in by violence the men have to stay by the Doors with axes in their hands to keep them out till they hollow for the Guards and if it were not for the Guards my whole farm woud be ruined & destroyed they have a hard time to keep them off. I have had Guard since August and still have them now. they attempted on Saturday last to kill all the Hogs I have & drove my [sheep?] down to the river to get them but was driven back by the Guards. I think Col. Sangster wood keep them off if he had ?? men I do say he is the very best man can be got for them certainly my family is quite distressed to misery we cant sleep more than half the night. and if you can do any thing for me I shal rember you for life and my family likewise. pleas do all you can to sustain Col. Sangster for if he leaves us we are ruined.

Secondly if it be necessary to prove this I will willingly take my affadavid to every word in this letta before any Justice of Peace. they threaten to burn us out if we refuse them any thing they ask for. they take Batteaus & oyster rakes & oysters from poor men on my shores every day & when I tell them they must not do so they say look out we give you a bed of ashes to sleep in & Point to Mr Alveys Barn that was burned in my sight.

Yours attention to this will for life be Remember as a great piece of kindness to me & my family

Respectfully yours
Sincere Friends &c
Saml E Duvall

January 5th 1863

The Guards will testify to this any time for they have a hard time to keep them off. they come in gangs from ten to twelve at a time three of them stripped themselves naked and surrounded a woman that was washing & if I had not of came by at that moment they may have done all they wanted with the wommen.

[Duvall was the keeper of the South River ferry at Ferry Neck, at the end of the old ferry road, known as Shipmakers Ferry.]

#100

Near Annapolis
Jan[uary] 5th 1863

Hon. A Randall
Sir

Having upon two occasions applied to the Coln. commanding Camp Parole for protection as well for my person as my property against threats and depredations committed by soldiers under his command and no notice whatsoever being taken by that officer of my complaints and the depredations being practiced daily I have thought that if the facts were brought directly to the knowledge of the governor His Excellency would not hesitate to adopt such measures as would at least mitigate if not prevent this evil. As I know of no one who can so well explain to the governor the state of affairs in my neighborhood as yourself and in the hope that you will ?? me & my neighbors that ?? office I take the liberty of stating to you some of the acts of destruction they have done to my property. In the first place two of my out houses have been robbed of all the planks that was upon them. The doors windows & floors are all destroyed. I have been plundered of my straw & provender to such an extent that my horses & cattle have to be put on short allowance. This plundering goes on almost daily. My carriage has been greatly damaged. The harness and ?? stolen. The gateway to my ice pond is quite destroyed. All the poultry (with the exception I think of three hens) has been taken. My tobacco houses are robbed daily of my best tobacco and when I speak to the men about their acts I am answered with abuse. I will not undertake to say what amount of ?? they have destroyed of me but it is considerable. I can say not a day passed but that from twenty to fifty of them may be seen walking in almost any direction over my grain fields.

Perhaps I have said enough to convince you that there ought to be redress from some source for these evils. I have not deemed it [important?] to speak of the losses of my neighbors some of whom have suffered to an extent even greater than myself as I believe that whatever measures may be adopted for my relief & safely will at the same time protect them.

Pardon me if I have trespassed upon your time & believe me to be

Very respectfully

yours &c

Albert Welch

CLAIM OF JAMES LEGG

Reproduced at the National Archives

175-6 (D.M.G.O.) 1872

★

Case of *James Legg*

of the U.S. Army

Quartermaster General's Office

Quartermaster General's Office, 1872

Mar 20/72, To Capt Wryen for report
March 12/71 Reedybach 2060 of '75

" 23/75 Reedybach to 3^d Auditor's record,
affording no information
in regard to the merits.

Dec 25/75 Atty. from Atty - atk for
returning papers to Auditor

Mar 25/75 Atty advised of premises
admission

Case of *James Legg*, Settlement No. 2423, of
June 14, 1888, for \$637.50 - appn. Army
Transportation. Clm'ts address Annapolis
Md. Atty. Ferdinand Muller same place.

Sept 17, 1875 for \$157.
Appropriation Army Transportation
for 1871 and previous years.

Payable to claimant, call
of appn. Settlement, Atty.

Treasury Settlement No. 2423, of
June 14, 1888, for \$637.50 - appn. Army
Transportation. Clm'ts address Annapolis
Md. Atty. Ferdinand Muller same place.

Atty. Ferdinand Muller same place.

1872

1/ Enclosures.

NARA RG 72 2200

10/11/79 Clm'ts D.M.G.O., April 15, 1873.

Case of *James Legg*, Settlement
No. 2518, in favor of James
Legg, for rent - \$192.

This Settlement is
based upon papers forwarded
to Auditor, May 17, 1873, for
settlement of rent - \$192, and
for fence - \$157.
\$349.

The Accounting Officers
have only awarded the 1st item.
James Legg
Quartermaster's Office

James Legg

1600
Reg. April 17/73

(Claim Form K.)

War Department,
Quartermaster General's Office,

Washington, D. C., *March 1st*, 1876

To *Charles M. Forest Esq*
Lieut. Col. 5th U. S. Cavalry
Post Office Building New York

Sir:

Your attention is respectfully invited to the accompanying statement of a claim in favor of *Oesterhaus, Charles* who resides in *France, French Army, Paris, France* for quartermaster's stores alleged to have been taken by you, for the use of the U. S. Army, at the time and place mentioned therein.

Will you please furnish the Quartermaster General any information you may possess which will assist this Office in the adjustment of the claim?

Any statement or report made in reply to this communication will not re-open or affect your accounts with this Department.

If you have no knowledge of this transaction, I would thank you to furnish the name and post-office address of any other officer or person from whom the information may probably be obtained.

By order of the *Acting* Quartermaster General:

Very respectfully, your obedient servant,

Henry J. Smith
Adj. and Asst. Quartermaster, U. S. A.

Claim No. *W. R. 275*

CLAIM OF SAMUEL DUVALL

Reproduced from the National Archives

9742 (D. L. S. O., 1873)

NARA RG 92 DUVALL S.E.

(C)

Claim of E. C. Duvall
Claim
Has been rejected as to information.
 Quartermaster General's Office. 1873

Sept. 15/73 Answered.

Reproduced from the National Archives

9742 Duvall 973 Washington Aug 28, 1878.

E. J. Duvall.

Referring to the information
 of above as to the bill
 of Samuel E. Duvall, for
 transportation of goods during
 the war, under Contract
 No. 100,000, etc.

Respectfully returned
 to the Hon. Secretary of War,
 inviting attention to previous
 report of this Office of Sept
 24, 1870, herewith.

ACCOUNT OF ANNA KEY STEELE BARROW

“Reminiscences of Anna Key Steele Bartow, daughter of Henry Maynadier Steele, whose family farmed the land at the end of the Annapolis Neck peninsula, roughly what is now Bay Ridge, Annapolis Cove, and Anchorage:

Henry Maynadier Steele died at the height of the Civil War [29 March 1863], his end hastened by his anxiety for Mother and me, surrounded by encampments of Yankee troops. On one of the last days that we drove in to Annapolis, as we passed through the lines of tents and soldiers on either side of the road they called after us ‘there goes old secesh and his daughter.’ I saw his nostrils flare and his color blaze and he said to me ‘we will not drive in again—we will go in by bateau.’

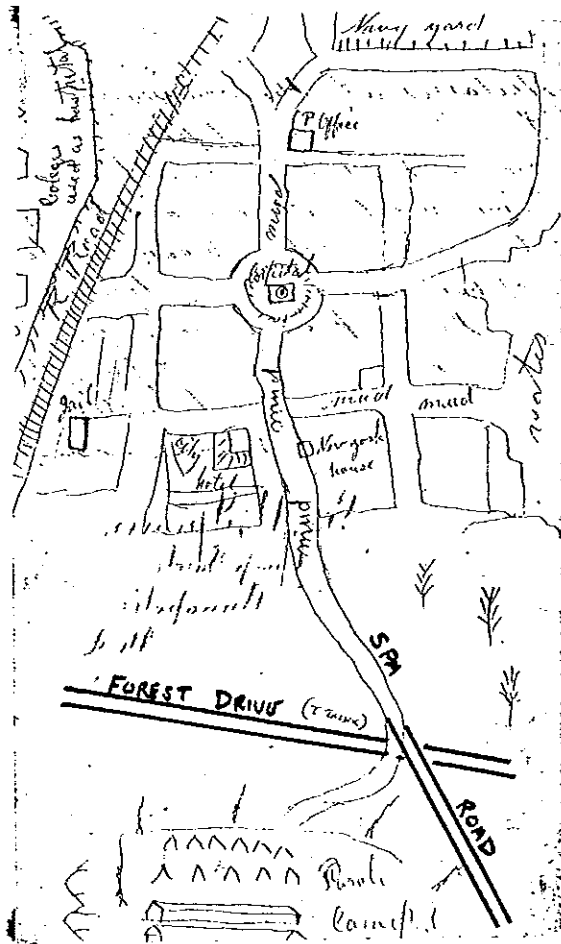
In 1863, the road into Annapolis from Bay Ridge was what is now called Old Annapolis Neck Road. Today only a few sections of that road remain, but you can still see where it runs into Spa Road, near the middle school behind the 7-Eleven on Forest Drive and Spa. Anna Steele and her father would have used that road and made the turn onto Spa Road to get to town. The Martinet shows these roads nicely.”

(From *Bay Ridge on the Chesapeake* (McWilliams and Patterson, 1986), p. 33)

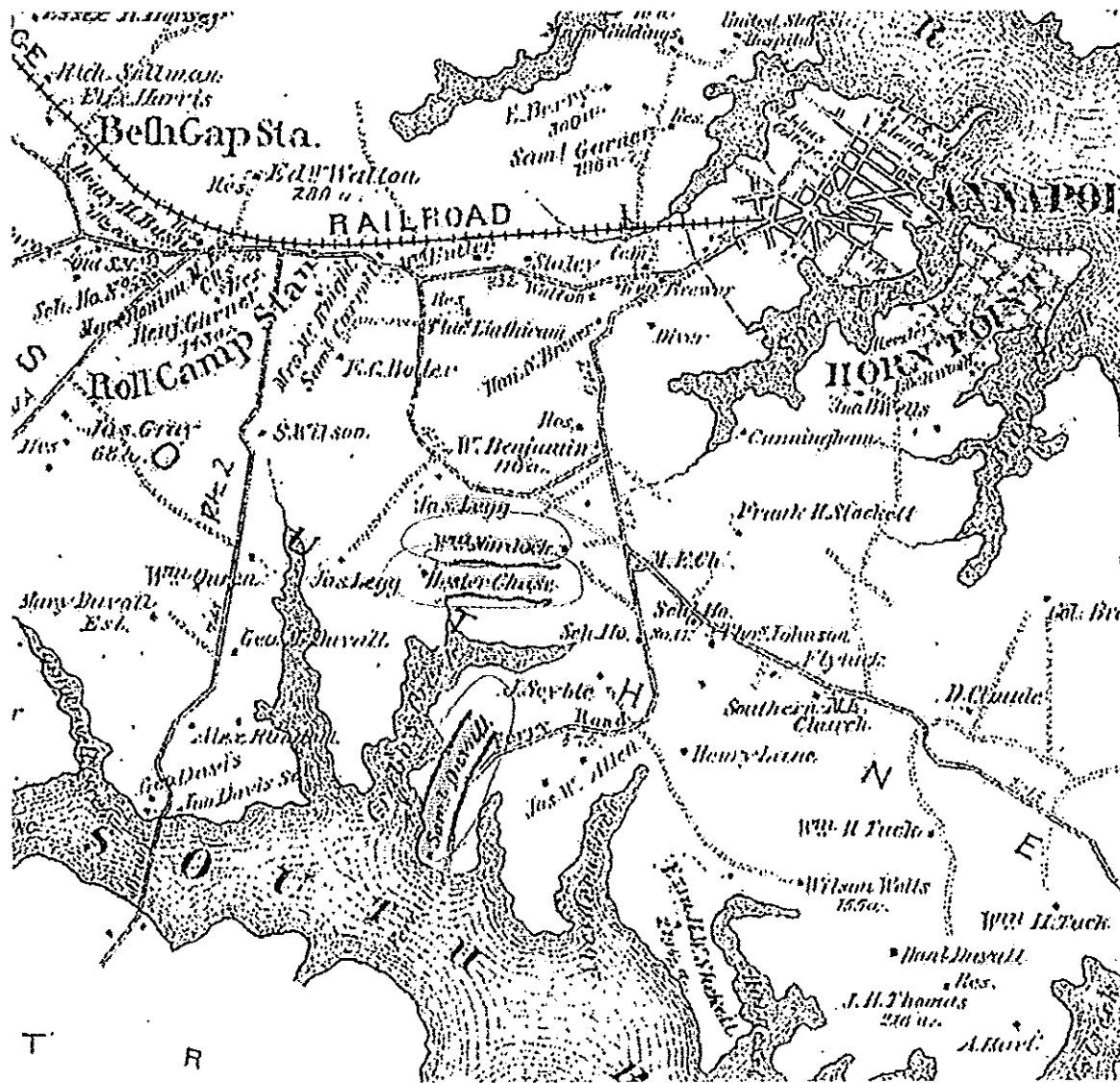
The Martenet map (see below) shows that Steele and her father would have driven along Old Annapolis Neck Road past School Hse 11 to the junction with the road to the Lower Ferry, turned right on that road (Spa Road), and continued north and then northeast to the intersection of Spa Road and West Street, and then continued on West Street into town. The lines of “tents and soldiers on either side of the road” would have been on both sides of Spa Road, and thus on Murdock land (present day Mas-Que Farm).

1864 LETTER AND SKETCH

May 4th 1869
 Dear Parents
 I have just received
 your letter and papers and was
 very glad to get them. But
 I don't know when we will be
 exchanged we may be in 2
 weeks or it may be not in
 3 months I hope not any more
Annapolis is I mean kind
of a place the soldiers call it
the end God town the capital
 stands in the center there is
 a circle around it I will
 show you on the other side
 there is only a few streets paved
 the mud is 2 feet deep all the
 time you can't get across the
 street without going the length
 of the pole it there is 4 meeting
 houses there we draw our



Jack Kelbaugh labeled Spa Road and added the intersection with Forest Drive.



G. M. Hopkins, *Atlas of Anne-Arundel County, Maryland* 1878

Shows James Legg's land to the left of Hester Chase and the Murdoch property to the right, with Samuel Duvall at the end of Ferry Road.

Chain of Title

Parcel A

Date	Book	Page	Grantor	Grantee	Size	Reference
			<i>Parcel A</i>			
2004	15473	148	Millers	Katherine Properties	14	<i>Start</i>
1995	7017	674	Miller children	Miller children	14	15473/148
1995	7017	679	Miller children	Miller children	14	15473/148
1993	6321	463	Mary G. Miller	Miller children	14	15473/148
1985	3847	707	Mary G. Miller	Miller children	14	15473/148
1984	3838	569	Mary G. Miller	Miller children	14	15473/148
1964	1793	468	Elsie Giffen	Mary G. Miller	14	6321/463
1963	1696	517	Elsie Giffen	Shirley & Mary Miller	9	15473/148
1959	1362	82	Elsie Giffen	Shirley & Mary Miller	4	15473/148
1957	1170	9	Robert & Elsie Giffen	Shirley & Mary Miller	8	15473/148
	FAM16					
1937	2	481	Annapolis Mortgage Co	Robert & Elsie Giffen	152	15473/148
	FAM14					
1935	5	246	James Munroe, attorney	Annapolis Mortgage Co	152	162/481
	WNW5					
1922	6	40	James & Alice Stehle	Viola & Frederick Stehle	228	162/481
						WNW56/4
1913	GW96	371	James Munroe, attorney	James & Alice Stehle	228	0
1910	GW72	163	Vansant heirs	Frederick Stehle	228	GW96/371
1889	SH35	222	Stockett & Ireland, trustees	James Vansant	228	1170/9
1888	SH18		Dexter et al v. Murdock et al.	see Mas-Que Farm report		

Parcel B

Date	Book	Page	Grantor <i>Parcel B</i>	Grantee	Size	Reference
1996	7707	244	Iliff et al	Katherine Properties	66	<i>Start</i>
1985	3897	557	Iliff dissolution of March Want	division of property		7707/244
1960	1381	50	Anthony & Irene Muto, CA	March Want, Inc.	B1, 2, 3 lots	3897/557
1953	776	196	3 Costen children	Anthony & Irene Muto	1&2	1381/50
1953	771	424	Charles & Eleanore Cadle	Anthony & Irene Muto	lot 3	1381/50
1947	JHH 407	206	Costen children	Anthony & Irene Muto	67	1381/50
1940	JHH 225	34	Costen children	Charles & Eleanore Cadle	lot 3	
1938	WMH 1	278	death of Jefferson D. Costen	will: Jefferson, Alta, Marie		776/196
1918	WNW1 0	57	Willis & Lottie Norton, MN	Jefferson D. Costen	100	776/196
1917	GW 132	368	Fred S. St. John, MN	Willis Norton, MN	100	
1916	GW 124	244	Irene and Caleb Wolfe	Fred St. John	100	GW132/36 8
1913	GW 96	292	Jefferson D. Costen	Irene Wolfe, Canada	100	GW132/36 8
1906	GW 48	231	Antone & Ann Steiner	Jefferson D. Costen	100	GW132/36 8
1906	GW 46	453	Antone & Ann Steiner	Frederick Liebau	[5]	GW132/36 8
1898	GW 10	24	Agnes & Charles Lindenborn	Antone Steiner	106	GW132/36 8
	Eq.	203				
		5	sale of property of Edw &	Henry Westbrook	106	GW132/36 8
1894	SH 49	128	Westbrook mortgage	Lindenborn	106	8
1894	SH49	126	Agnes & Charles Lindenborn	Edward & Henry Westbrook	106	776/196
1891	SH 38	355	Dr. Thomas B. Chase	Agnes Lindenborne	235	GW132/36 8
1886	JWB 11	302	will of Hester Ann Ridout	Dr. Thomas B. Chase	235	8
1885	SH25	443	exchange of deeds	Ridout to Ridout	235	
1828			death of Jeremiah T. Chase	to d. then granddaughters	235	
1824	WSG9	225	Catherine & Richard Crabb	Jeremiah Townley Chase	235	deeds index
1815	WSG4	83	Jeremiah Townley Chase	Catherine & Richard Crabb	542	deeds index